

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 : 04-CR-911
-against- :
 : United States Courthouse
ALPHONSE T. PERSICO and : Central Islip, New York
JOHN J. DeROSS, :
 :
Defendants. : November 26, 2007
-----X 9: 30 a. m.

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOANNA SEYBERT
UNITED STATES DISTRICT COURT JUDGE, and a Jury

APPEARANCES:

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- For Persico

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Proceedings recorded by mechanical stenography
Transcript produced by Computer

1 THE COURT: Ms. Kedia, I looked over, over the
2 weekend, some of the issues that were raised in your
3 letter. And I think there has to be a focus, as the
4 government points out in its responding letter, as to what
5 the issues really are with regard to whether they are
6 collateral issues or they are critical.

7 And for the most part, my review of the
8 transcript and the comments that were made, these were
9 primarily collateral issues. And you're dealing with
10 individuals who are under the guise of cooperating
11 witnesses.

12 They have cooperated not only in this
13 prosecution, but also in many other cases. There are
14 hundreds of 302s; there is sworn testimony, and it is
15 quite extensive. Now that is not to excuse what would
16 appear to be a pattern of evasive testimony. And I didn't
17 see that.

18 And it is my impression, after looking at all of
19 the testimony, Marchand and all of the other cases that
20 are basically under 801; you have to show at least
21 initially some inconsistency. And it is for the Court to
22 make the determination as to whether or not it is
23 inconsistent.

24 So I can hear any further argument that you want
25 to make. I can also hear from the government as to their

1 position.

2 MS. KEDIA: Your Honor, we'll submit to the
3 Court the specific instances where we do believe that it
4 is not collateral, and where the witness was clearly in
5 our view inconsistent. And it is for the Court's
6 determination.

7 THE COURT: The only one that came close was the
8 issue about Mr. Campanella being armed and Mr. Dionisio
9 also being armed. Mr. Campanella said he didn't recall
10 being armed. But there were a number of questions. And
11 the interpretation of the 302s is somewhat spotty.

12 In any event, I will continue to rule as to
13 whether or not I believe the statements are inconsistent,
14 and whether or not 302s reflect a verbatim, or at least a
15 fair rendering of the statement at issue.

16 In view of the number of 302s, and the positions
17 that relate to other investigations, it is kind of
18 difficult to dissect that initially.

19 What I would ask you to do, is when you are
20 referring to 302s, that you turn over copies to the
21 government. And if you would turn them over to me and
22 highlight the portions that you maintain are inconsistent
23 with the testimony.

24 The witness, I understand, that is coming in, is
25 Mr. DiLeonardo, and the witnesses are going to be

1 substantially less. Because as you may know, the Southern
2 State Parkway is flooded. So they are currently on the
3 parkway, and I don't expect them to get here for at least
4 a half hour or so, maybe longer.

5 So having said that, that will give you an
6 opportunity to turn over any documents. And the
7 government can continue to indicate to you who the
8 witnesses are.

9 MS. KEDIA: All 302s that I have with respect to
10 Mr. DiLeonardo and then the next cooperators, the
11 government indicated they intend to call Mr. Florida,
12 have 3500 material turned over by the government. And
13 they are marked as various 3500 material. And I believe
14 the Court has a copy. And I'll point the Court to the
15 part.

16 THE COURT: If you would, I think I have a copy
17 of a lot of that.

18 MR. BURETTA: Judge, on the issue of the 302s,
19 there was a very specific objection that was lodged by the
20 government at the end of the day regarding Mr. DiLeonardo.
21 And the objection was that counsel, without laying any
22 foundation that the witness had ever adopted the
23 statement, was reading verbatim from the report.

24 So that was the case, and that was our
25 objection. So we never have a problem with defense

1 counsel cross-examining a witness to determine whether he
2 might have said something different on a prior occasion
3 subject to the rules of evidence.

4 However, you can't hold a report up and then
5 start reading verbatim from it, indicating to the jury
6 that in fact the witness had made this statement, when in
7 fact there has been no foundation laid that he did. So
8 that was our specific objection. And it was stated in the
9 record as such.

10 THE COURT: After, Mr. DiLeonardo -- how long do
11 you figure you might be with him?

12 MS. KEDIA: I'm going to be, I would guess until
13 the lunch hour, depending on what time he gets here, of
14 course.

15 THE COURT: All right. And Mr. LaRusso?

16 MR. LaRUSSO: What I hope to do, your Honor, is
17 not to cover areas that Ms. Kedia has gone into. So I
18 anticipate maybe a half hour, or an hour, right now based
19 upon the testimony. I'm not going to be all that long.

20 MR. GOLDBERG: Your Honor, one minor
21 housekeeping matter?

22 Ms. Kedia showed us photographs she intends to
23 use during her cross-examination of Mr. DiLeonardo. I saw
24 them for the first time this morning. I have no real
25 problem with that. But she has no copies for us. I

1 presume she has no copies for the Court. It wouldn't be
2 hard, I know, for her to make copies for everybody.

3 MS. KEDIA: Judge, I actually made these last
4 night. I showed them to the government already. I'm
5 happy to hand them up to the Court to look at. They are
6 two locations which Mr. DiLeonardo testified about during
7 his direct.

8 THE COURT: And what locations are they?

9 MS. KEDIA: One is the park in the Dyker Heights
10 area where he says he met Mr. Persico. And the other is
11 the bagel store he said Mr. Persico owns.

12 THE COURT: These photos are quite nice.

13 MS. KEDIA: Thank you.

14 MR. GOLDBERG: And, Judge, they are nice and
15 they take sometime to make. And it wouldn't be so hard to
16 just make a photocopy for the government.

17 THE COURT: Do you mind if they make a photocopy
18 for the government?

19 MS. KEDIA: Not at all, your Honor.

20 THE COURT: And while you're at it, make copies
21 for me too.

22 MS. KEDIA: In fact I have a few for a
23 subsequent witness. I'll give them to the government to
24 make copies of as well.

25 (Handing)

1 THE COURT: When do you expect Mr. Floridaia to
2 come in?

3 MR. BURETTA: We expect him to be here by lunch,
4 Judge.

5 THE COURT: So he will follow Mr. Campanella --
6 I'm sorry -- Mr. DiLeonardo?

7 MR. BURETTA: There are three agents who will
8 testify after Mr. DeLeonardo. They're each short
9 witnesses. And then they will be followed by Mr.
10 Floridaia, the next cooperator.

11 MR. LaRUSSO: Your Honor, while we have a few
12 moments, can I raise an issue that would probably arise
13 just before one of those witnesses testifies?

14 I believe Michael Rosanova is an agent who will
15 testify that he was given a telephone that was taken from
16 Mr. Floridaia's van when it was seized by the FBI sometime
17 after July 25th of 2001.

18 I believe he will testify based on the material
19 provided by the government that he downloaded the
20 information from that telephone. And from it he was able
21 to record telephone numbers and names associated with
22 those numbers. And I believe also he had some mis-called,
23 some dialed calls, also recorded.

24 That telephone has been turned back over to the
25 person who was subscriber, Maria Floridaia, the wife of

1 John Floridaia. That phone is not in the possession of the
2 government at this point. I don't know when they turned
3 it back over.

4 That particular telephone is very critical to
5 the government's case and it is very critical for us to be
6 able to show that this information on that phone might not
7 be reliable. We have no way of testing the information
8 that Mr. Rosanova is about to provide to the Court. That
9 phone is not available.

10 The government, without letting us know that
11 they were going to give it back to Maria Floridaia, who was
12 in fact target of the investigation, I believe at this
13 point gives us the right to ask the Court to suppress any
14 evidence that would come from that telephone. There is no
15 connection to the original instrument that this witness is
16 going to say this came from. All he is going to say is;
17 it's a phone I took some information off. And here is the
18 printout.

19 At this point, Judge, I'm going to make an
20 application that any information that Mr. Rosanova gives
21 regarding that telephone and information from it be
22 suppressed.

23 MR. BURETTA: Judge, the information was amended
24 at the last trial without any issue about where the phone
25 was, being raised. These are all weight arguments that

1 counsel can make about the fact that the phone was
2 returned.

3 There is no bad faith by the government, the
4 government or any of its agents, because the agent
5 returned the phone. Which I understand occurred many
6 years ago before the defendants were even indicted.

7 So he can certainly argue; you don't have the
8 phone, agent. There will be other agents that will
9 testify later that he can cross about the turning the
10 phone over. He can make all of the arguments he wants to,
11 to show there is something.

12 But there is no basis for suppression. There
13 is nothing being cited in that regard. If this was an
14 issue, counsel was aware of it a long time ago. So if
15 there was a basis for suppression, he could have made a
16 motion.

17 MR. LaRUSSO: It would have been nice if I knew.
18 But we learned this recently. This is not something,
19 Judge, that I was aware of for years and years and years.
20 I think it came to light during an impromptu conversation
21 Ms. Kedia had discussing with government with regard to --

22 THE COURT: This occurred in the last trial,
23 though. The phone records were admitted in the last trial
24 without objection. And at that point you had not sought
25 for the production of the phone.

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1 MR. LaRUSSO: That's correct, your Honor. We did
2 not know during the last trial that the government wasn't
3 in possession of the phone. Recently we had an expert who
4 had come in to examine certain of the devices which the
5 government possesses. One of the devices we sought to
6 have examined of course was this phone seized from
7 Mr. Florida's van.
8 And we were then told that the government is not
9 in possession of it. This was something that we learned
10 in the last couple of weeks.
11 MR. BURETTA: The point is, Judge, they never
12 requested to look at that phone ever until a couple of
13 weeks ago. They were told at this point we didn't have
14 the phone any more. And if they thought there was a basis
15 for suppression, they could have made the motion. But
16 there is not. It is a weight issue.
17 MS. KEDIA: We do think there is a basis for
18 suppression. That this is why we're raising obviously the
19 issue before the Court. We didn't know the information
20 prior to the last trial to make that an issue during that
21 period of time.
22 THE COURT: You didn't have an expert at that
23 time to examine the phone?
24 MS. KEDIA: We did not, exactly.
25 THE COURT: You can certainly bring your expert

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1 in and say this is what we have learned since then that
2 would make it unreliable. And I'll allow you to do that
3 on the defense case.
4 MS. KEDIA: Well the expert is not going to know
5 anything about the phone, because this is not a device he
6 was given, obviously.
7 THE COURT: Well you did say that the expert
8 opined that these records could have been tampered with,
9 or something could have happened with the phone.
10 MS. KEDIA: The expert can't say anything
11 without examining the physical phone.
12 THE COURT: And how long ago was the phone
13 turned over, six years ago?
14 MR. BURETTA: I believe so, Judge.
15 MR. LaRUSSO: Judge, you know if you look at the
16 printout of the telephone numbers, it goes from 1 to 30.
17 The number 30, which is going to be referred to as the
18 phone, seeking the phone Mr. Florida was using to
19 communicate with his Colombo associates. That is the
20 critical evidence the government is seeking to introduce.
21 And there is number 29.
22 What happened to the 29? You know the
23 government is saying that, you know, this is a matter of
24 weight. It isn't a matter of weight. Initially it is a
25 matter for the Court to determine outside the presence of

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1 the jury if there is even enough evidence to permit its
2 introduction.
3 I'm saying to the Court that it is unreliable to
4 begin with. There is obviously some evidence regarding a
5 possibility that a number was not recorded off of that.
6 It is missing. It is not there. And the government will
7 admit it, they have no explanation for it.
8 What I'm saying, Judge, is that the chain of
9 custody has been broken with regards to this. There is a
10 substantial question as to the reliability of this
11 particular document.
12 I'll give you another example. They got a
13 search warrant two days after they seized the phone, to
14 look at the information inside. Well before that on the
15 25th when the phone was actually taken, agent DeStephano
16 went into the phone. We have, we haven't gotten any
17 information on what he recorded regarding those numbers.
18 We don't even have any information from Mr. Rosanova when
19 he first went in there, whether this information that has
20 been typed out is accurate.
21 But be that as it may, the government has not
22 been able, and will not be able to show you that this
23 printout is in fact an accurate reflection of what is in
24 that phone. They don't have the phone. And that is the
25 primary problem here with regards to the chain of custody,

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1 which is an initial question for the Court before you even
2 get to a question of weight.
3 MR. BURETTA: It is weight. And this agent is
4 the one who downloaded the phone two days after it was
5 seized. Mr. LaRusso just told the Court the government
6 can't say that, that that was what was on the phone. Yes
7 we can, because the agent will say that is what was on the
8 phone.
9 THE COURT: And did he record the information?
10 MS. KEDIA: Yes, Judge. He wrote it down that
11 is the exhibit that will be admitted into evidence which
12 was admitted last time.
13 THE COURT: Does it have the existing calls,
14 number 29?
15 MR. BURETTA: He was cross-examined about this
16 exact thing at transcript page 2454 at the last trial. He
17 was asked about number 29. He said he didn't see anything
18 in number 29. There you have it.
19 MR. LaRUSSO: Judge, you have no idea what phone
20 those numbers relate to. It is just a number of addresses
21 and telephone numbers. You can't pick up a phone and say
22 it came from somebody else's phone. There is no way of
23 connecting that to the phone that Mr. Florida says is in
24 his possession.
25 Where on that printout was the phone number

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1 belonging to the telephone? You need the telephone. You
 2 need to be able to say, here's the telephone. Here is --
 3 this is the number, and this is printout from that
 4 telephone.

5 Can the government say looking at that whether
 6 those numbers relate to the phone that Mr. Florida was
 7 using that relates to the telephone that was taken from
 8 his car? No. It just has a number of addresses and
 9 telephones, Judge.

10 And I say this is a question for the Court to
 11 determine. And I don't think the government by -- by the
 12 way, we're not alleging bad faith, all right? I don't
 13 think the government actually knew the significance of
 14 that phone until some time later. So I'm not alleging bad
 15 faith, Judge. I'm alleging on the rules of evidence they
 16 have not been able to, cannot use that document without
 17 the phone being available. That is my argument.

18 THE COURT: What is the document number?
 19 MR. BURETTA: I believe it is 92, your Honor.

20 THE COURT: All right. As soon as we hear from
 21 the witnesses, I'll be out.

22 The jurors are all here.

23 MR. LaRUSSO: Your Honor, I apologize to the
 24 Court. Have you ruled in favor of the government, or are
 25 you considering conducting a hearing with Mr. Rosanova to

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1 lay the groundwork for its admission?
 2 THE COURT: I am going to go back and look at
 3 the prior transcript, providing that I have it with regard
 4 to the phone records. And that was at 42 -- what was the
 5 place?
 6 MR. BURETTA: It would be the entire testimony
 7 of 3500 MR-2. That is Special Agent Rosanova's prior
 8 trial testimony.

9 MS. KEDIA: Judge, one other thing. When you're
 10 reviewing this, I just heard for the first time the
 11 government say that Agent Rossanova wrote down the
 12 information.

13 It was our understanding, I believe previously,
 14 that this was downloaded from the phone, this exhibits 92
 15 that was created. But apparently it wasn't. And he
 16 actually took down the information, is what I understood
 17 Mr. Burette just to say.

18 If that is the case, then we would ask for Agent
 19 Rossanova's handwritten information as well, if that is
 20 what happened here.

21 MR. BURETTA: I was speaking generally. I don't
 22 specifically know if he has written anything. Whatever
 23 his prior testimony was.

24 THE COURT: All right, let me take a look at his
 25 prior testimony.

DiLeonardo - Cross/Ms. Kedia

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1 (A recess was taken at 10:02 a.m.)
 2 (The jury entered the courtroom at 10:12 a.m.)
 3 THE COURT: Good morning, ladies and gentlemen.
 4 So nice to see you all.
 5 Please be seated.
 6 I apologize, but the weather conditions were
 7 such, and I know some of you appreciate -- some of you
 8 have seen the flooding. I see you are all here and you
 9 are ready. And we're ready to proceed.

10 And Mr. DiLeonardo, you're still under oath.
 11 MS. KEDIA: Thank you, your Honor.

12
 13 MICHAEL DiLEONARDO
 14 called as a witness, having been previously duly
 15 sworn, was examined and testified further as
 16 follows:
 17
 18 CROSS-EXAMINATION (Continued)
 19 BY MS. KEDIA:
 20 Q. Mr. DiLeonardo, good morning.
 21 A. Good morning.
 22 Q. When we were here last week, one of the things that
 23 you had told us about is that, your decision to cooperate
 24 was partly made when you learned that your teen-age son
 25 had gone to visit John Gotti, Jr., in jail. Right?

DiLeonardo - Cross/Ms. Kedia

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1 A. Correct.
 2 Q. And your son is someone who has known John, Jr his
 3 whole life. He called him *Uncle John*. Right?
 4 A. No, he didn't. Yes, just about -- I would say just
 5 about since '88.
 6 Q. So more or less his whole life, when he was a child?
 7 A. Yes.
 8 Q. He referred to him as Uncle John. That is what he
 9 called him. Right?
 10 A. Right.
 11 Q. Now, you testified about your son's manipulation by
 12 John, Jr. Right?
 13 A. Correct.
 14 Q. What in fact you're aware of, Mr. DiLeonardo, is that
 15 your son had actually wanted to see -- his desire to see
 16 John, Jr, long before you decided to cooperate, before you
 17 even were arrested. Right?
 18 A. I'm not sure about that.
 19 Q. Well, in March of 2002, certainly at that point in
 20 time, you hadn't even been arrested on the murder charge
 21 that led you to the decision to cooperate. Right?
 22 A. That's correct.
 23 Q. And in March of 2002, that was shortly after you with
 24 were divorced from your ex-wife, Toni Marie. Right?
 25 A. Right.

- 1 Q. And that was a period of time where there was
2 emotional upheaval in your family. Right?
3 A. Absolutely.
4 Q. Because your ex-wife had learned from an anonymous
5 source that, in fact, you were having an affair with
6 another woman?
7 A. Correct.
8 Q. And had a child out of wedlock with that woman.
9 Right?
10 A. Correct.
11 Q. And your son was quite distraught about it. Right?
12 A. We overcame that hurdle, my son and I.
13 Q. Are you aware that your son expressed a desire then
14 to go see his Uncle John -- to visit his Uncle John in
15 jail?
16 A. I heard that at another proceeding. At the time I
17 didn't know.
18 Q. But you subsequently learned that?
19 A. Yes.
20 Q. And in fact, you're aware that your both of, both
21 your son who is now what, 21?
22 A. Correct.
23 Q. That your son maybe last year, as well as your
24 ex-wife, testified on behalf of Mr. Gotti. Right?
25 MR. GOLDBERG: Objection, relevance.

- 1 THE COURT: Overruled.
2 A. Yes.
3 BY MS. KEDIA:
4 Q. Now, we talked about your -- about various people in
5 La Cosa Nostra breaking the rules. Right?
6 A. Correct.
7 Q. And it is something that we have had this -- this has
8 happened throughout history. Right?
9 A. Right.
10 Q. And, in fact, you have done things yourself without
11 necessarily getting permission. Right?
12 A. If you refresh my recollection. I don't remember
13 anything offhand.
14 Q. Well, for example, you were involved in a robbery
15 behind Castellano's back when you were an associate?
16 A. No. That I had on record.
17 Q. You had that on record?
18 A. Sure.
19 Q. Do you recall testifying that you did not have it on
20 record; that you did it behind his back?
21 A. No. I said Pete didn't know about it, but it was on
22 record.
23 Q. Well, Pete didn't know about it. Right?
24 A. Right.
25 Q. And who was Pete at the time?

- 1 A. He was a wiseguy. I didn't go to Pete. He wasn't my
2 superior, and he wasn't aware of the situation. He
3 learned it later on because he got a gift from the robbery
4 from Frank Seriani. He gave him some jewelry from the
5 robbery. So I guess once he got the gift, all was
6 forgiven if he had anything to say about it.
7 Q. And during the time that you were committing crimes
8 for the family that you were involved with the Gambino
9 family, you had friends who were not in your crew involved
10 on occasion. Right?
11 A. Sure.
12 Q. And for a period of time you said that you were a
13 loan shark. Right?
14 A. Right.
15 Q. Now, when you loansharked money, who were your
16 customers?
17 A. People that I know, close.
18 Q. People that you knew?
19 A. It could be from people in my crew, up until when I
20 got straightened out. I would shylock them money, like a
21 half a point a week so they could go out and re-shylock
22 money and earn a living. Or when I started out as a kid,
23 people that I know, friends of mine.
24 Q. When you say shylock the money at a half point, so
25 that he could re-shylock; you mean that you would loan

- 1 money to someone you knew?
2 A. I was a shylock -- shylock, right.
3 Q. So you would loan money to someone you knew and then
4 that person would loan it to someone else at that higher
5 interest rate than you were loaning it to them. Right?
6 A. Absolutely.
7 Q. And that way the person you knew could earn money and
8 you could earn money on this business. Right?
9 A. Correct.
10 Q. Now, when you loansharked money to people, you never
11 had to threaten anyone. Right?
12 A. I yelled at people, absolutely.
13 Q. I'm sorry?
14 A. I did yell at people, yes.
15 Q. Yell at people?
16 A. Yes, yell at people.
17 Q. Did you ever threaten violence?
18 A. Yes. Sometimes I told people they would get a crack.
19 Q. Do you recall testifying in prior proceedings in this
20 action you never had to threaten anyone?
21 A. Well, threaten to the part of killing them. But as
22 far as I want my money, absolutely. When you lend out
23 money -- shylock money, there is a threat always there.
24 The only way we can collect it if we choose to,
25 is through violence. So there is always a threat of

1 violence when you shylock money, because we can get
 2 robbed. We're not going to be robbed.
 3 Q. Mr. DiLeonardo, I didn't ask you whether there was an
 4 aura of violence, an aura of a threat. I asked you about
 5 you personally threatening someone.
 6 I didn't ask you about killing someone. You
 7 understand that. Right?
 8 A. Yes.
 9 MR. GOLDBERG: Objection to the form.
 10 THE COURT: Yes, sustained.
 11 BY MS. KEDIA:
 12 Q. You understand the difference between a threat to
 13 kill somebody and simply threatening somebody. Right?
 14 A. Yes, but you didn't clarify that. There is all kinds
 15 of threats, Counselor.
 16 Q. Well, do you want to change your answer about whether
 17 you threatened somebody?
 18 MR. GOLDBERG: Objection.
 19 THE COURT: Overruled.
 20 A. No, I don't -- don't want to change that.
 21 BY MS. KEDIA:
 22 Q. Did you in fact have occasion to threaten people?
 23 A. Yes, like I said. When they didn't pay, they were
 24 behind, and I thought they were abusing their privilege, I
 25 made it clear that I wanted my money, absolutely.

1 Q. Can you answer my question, yes or no?
 2 A. Yes, absolutely.
 3 Q. Now, Mr. DiLeonardo, do you always recall testifying
 4 that when people didn't pay back the money, you didn't
 5 necessarily get physically hurt, you verbally admonished
 6 them?
 7 A. Yes, just about sometimes.
 8 Q. And, in fact, that is the way you chose to handle
 9 things. Right?
 10 A. Right.
 11 Q. And different things happen; people handle things in
 12 different ways?
 13 A. Absolutely.
 14 Q. In fact, you expressed that Billy Cutolo handled
 15 things in a very aggressive manner?
 16 A. Right.
 17 Q. And someone like Mr. Persico handled it in a much
 18 more subtle sense. Right?
 19 A. Absolutely.
 20 Q. And you testified about a time when you -- I think
 21 two occasions when you were offered a position on a
 22 committee in the Gambino family?
 23 A. Right.
 24 Q. And there was the time after John Gotti, Sr, went to
 25 jail?

1 Q. Do you recall testifying at a proceeding earlier this
 2 year?
 3 MS. KEDIA: I believe, your Honor, it is marked
 4 at 3500 MDL 159, page 1199.
 5 May I?
 6 THE COURT: Book five?
 7 MS. KEDIA: I don't know what book it is, your
 8 Honor.
 9 THE COURT: All right. I'm getting there.
 10 MR. GOLDBERG: It is the last book, your Honor.
 11 THE COURT: Thank you. And what page?
 12 MS. KEDIA: 1199.
 13 THE COURT: Okay.
 14 BY MS. KEDIA:
 15 Q. Question, line 10:
 16 "When you loaned them this money, did you
 17 threaten them that if they didn't pay it back you were
 18 going to have to have them hurt?
 19 "Answer: No, I really didn't have to. But I
 20 yelled at Peter Asvarello (ph) one time."
 21 Do you remember, Mr. DiLeonardo, being asked
 22 that the question and giving that answer at a prior
 23 proceeding earlier this year?
 24 A. If I can interpret the question. Let's see if it's
 25 right.

1 A. Right.
 2 Q. And the family was being run by a five-man committee.
 3 Is that right?
 4 A. Right.
 5 Q. And John, Jr is someone who was actually your friend?
 6 A. Correct.
 7 Q. He was someone who was made with you. You were
 8 inducted into the family at the same time as you. Right?
 9 A. Correct.
 10 Q. And it is your testimony that he asked you to be on
 11 the committee?
 12 A. Right.
 13 Q. And you turned him down?
 14 A. Right.
 15 Q. And there are two separate occasions which he asked
 16 you to be on the committee. Right?
 17 A. Yes, that he asked me. Right.
 18 Q. There was an occasion where a person by the name of
 19 Lou Valeria (ph) was taken down?
 20 A. Right.
 21 Q. And you were asked to replace him?
 22 A. Right.
 23 Q. And there was another occasion where a person by the
 24 name of Jimmy Fiella (ph) got pinched?
 25 A. Correct. And there was one other, but not by junior,

1 by senior.

2 Q. And there was a later occasion?

3 A. Correct.

4 Q. And each and every time you said, No, thank you?

5 A. Right.

6 Q. When you said Jimmy Fiella got pinched, that means he

7 was arrested. Right?

8 A. Right.

9 Q. Now, did you consider it an insult to say, No, I

10 don't want to be on a committee?

11 A. No.

12 Q. It was something that everybody accepted and didn't

13 get upset about?

14 A. Well, I don't think everybody knew about it. It was

15 between John and myself at that time.

16 Q. Someone who certainly was, as you testified,

17 associated with the Gambino family your whole life?

18 A. Right. Absolutely.

19 Q. And then you say that the day you were inducted was

20 the proudest day in your life?

21 A. Right.

22 Q. And you certainly had a desire to become a captain,

23 and you, in fact, were made a captain. Right?

24 A. Right.

25 Q. But you decided to make the decision to go no further

1 than that. That is your testimony?

2 A. Well, it was like a work in progress. It was a

3 transition of who was sitting at what time. And the

4 situations changed.

5 Early on, I didn't think we belonged up front.

6 I thought younger people up front was a bad precedent for

7 the families, much as we were trying to pass things on,

8 keep the family together. So I thought John and I should

9 sit in the back.

10 We had all kinds of old families that were doing

11 a lot better than us, that were doing a run of --

12 Q. Well, certainly John was one of the people running

13 the family.

14 A. He was a little too young at the time, and he wasn't

15 in the life that much, and didn't know too much.

16 Q. And so was he or was he not one of the people running

17 the family?

18 A. He was the one, when his father was in jail. But he

19 was -- his father's orders were for him to stay in the

20 background. Let Pete and Jack stay in the front all the

21 time.

22 Q. So you testified that the reason, actually, that you

23 turned down being on the committee was to avoid law

24 enforcement scrutiny?

25 A. That was one of them. There was a multitude of

1 reasons. There wasn't just one reason.

2 Q. Well, Mr. DiLeonardo, were you concerned about law

3 enforcement's scrutiny when you were released on bail in

4 your Atlanta hay days and you were running around with

5 your crew committing crimes?

6 A. No. Yes, of course I was. I didn't want to get

7 remanded.

8 Q. But you certainly did it?

9 A. Absolutely, as careful as I could have. Yes. I

10 wasn't really concerned, just like I said, with refusing

11 the position. It was just with law enforcement.

12 Q. Were you concerned about law enforcement scrutiny

13 when you agreed to be the liaison between the Gambino

14 family and the Colombo family?

15 A. No. Like I said, you are always concerned about law

16 enforcement. You want to be as careful as you can. But

17 that had no play in it, no. Absolutely.

18 Q. Now, Mr. DiLeonardo, when we talked about the crimes

19 you have committed, you never made money legally

20 throughout your life. Right?

21 A. No. Well, depends on who you are. Myself, I stayed.

22 From the first moment you get your finger pinched,

23 everything you do is illegal. Everything we do is

24 criminal.

25 Q. Everything you did was criminal?

1 A. No, everything Cosa Nostra does. Because we don't go

2 to the cops, so any -- we run into any -- we open up a

3 bagel store, someone comes and puts you -- one of your

4 workers. We're not going to call the cops.

5 We call us. So anything we do, the

6 ramifications are of the Mob.

7 Q. Mr. DiLeonardo, I don't think you understood my

8 question. My question is --

9 MR. GOLDBERG: Objection. Comment.

10 THE COURT: Sustained. Rephrase.

11 BY MS. KEDIA:

12 Q. The money that you earned throughout your lifetime,

13 was -- that was illegally gotten gains?

14 A. Yes. Like I said, everything I think I done in my

15 life was illegal. Correct.

16 Q. Now, everything that you did that was illegal fell

17 within the purview of the Gambino family. Right?

18 A. Yeah.

19 Q. So from the time like 19 -- when did you get --

20 A. The late seventies, late seventies.

21 Q. So all of the money that you earned was considered

22 family money. Is that right?

23 A. Yes.

24 Q. And, in fact, once you became -- once you were put on

25 record and certainly once you were inducted into the

DiLeonardo - Cross/Ms. Kedia

1970

- 1 family, everything belonged to the family. Right?
- 2 A. Everything does. That's correct.
- 3 Q. There is no individual person that certain property
- 4 belongs to. Right?
- 5 A. Not even the boss. He is only what they call a
- 6 representative. It belongs to the entity, there is only
- 7 possessions.
- 8 Q. You said not even the boss?
- 9 A. No.
- 10 Q. Certainly not the underboss or the consiglieri or
- 11 anyone below that as well. Right?
- 12 A. Well, at the time, when there is an admission in
- 13 place, those are the people making the political decisions
- 14 of the family. But it belongs to the family because the
- 15 boss can always be taken down or killed, or whatever. You
- 16 know, so it belongs to the family.
- 17 Q. And, in fact, I think one of the things that you just
- 18 described yourself is, you're a servant within the family?
- 19 A. Right. We're all servants.
- 20 Q. Now, you talked about a few murders that you were
- 21 involved in. I believe you said you pled guilty to three
- 22 conspiracies to commit murder. Right?
- 23 A. That's correct.
- 24 Q. And one was of a fellow by the name of Fred Weiss.
- 25 One was of a fellow by the name of Jack -- you don't know

DiLeonardo - Cross/Ms. Kedia

1971

- 1 his last name. And the other was a person by the name of
- 2 Frank Hydel. Is that right?
- 3 A. That's correct.
- 4 Q. And those are the only three that you pled guilty to.
- 5 Right?
- 6 A. Right.
- 7 Q. Now, there are occasions that you also testified that
- 8 certain guys were lobbying to have other people get
- 9 killed. Right?
- 10 A. Correct.
- 11 Q. And you stepped in and you were the hero. Right?
- 12 A. Well, I wasn't a hero. I just was following what
- 13 Cosa Nostra was. I wasn't going to be a crusader.
- 14 Q. Well, you saved their lives. Right?
- 15 A. Yes.
- 16 Q. And you said you can't kill these people. For
- 17 example, there are occasions where guys were lobbying to
- 18 have people killed because it was thought that they were a
- 19 rat. Right?
- 20 A. Correct.
- 21 Q. A rat, meaning cooperating with people like you?
- 22 A. That's correct.
- 23 Q. And you stepped in and you said you can't kill them
- 24 because unless you know for sure that, in fact, they're a
- 25 rat. Right?

DiLeonardo - Cross/Ms. Kedia

1972

- 1 A. Absolutely.
- 2 Q. And that that happens throughout the families.
- 3 Right?
- 4 A. I would say so.
- 5 Q. That there is someone like you calling yourself a
- 6 crusader. Is that right?
- 7 A. No. I did not call myself a crusader. I said I
- 8 didn't try to be a crusader. I just tried to, you know,
- 9 do the right thing.
- 10 The only way to take a life -- you can't bring
- 11 them back once you take them. So if you made a mistake,
- 12 there is no one way to fix it. There is families
- 13 involved, children and stuff.
- 14 Q. And throughout the families, there are people like
- 15 you who are, quote-unquote, trying to do the right thing.
- 16 Right?
- 17 A. I would think so, yes.
- 18 Q. And you have experienced that through your 20-some
- 19 years?
- 20 A. My whole life.
- 21 Q. Your whole life?
- 22 A. Right.
- 23 Q. Because you have been associated since the day you
- 24 were born. Right?
- 25 A. Correct.

DiLeonardo - Cross/Ms. Kedia

1973

- 1 Q. Now, similarly, apart from murder, when someone is
- 2 assaulted, it is up to them, though, to handle it. Right?
- 3 A. Absolutely.
- 4 Q. And if someone is shot and they don't want to do
- 5 anything about it, it's up to them. Right?
- 6 A. Uh-uh, the one with the black eye. If you don't want
- 7 to get a black eye, if you're a member, a wiseguy, and the
- 8 person knows who you are, and they do something to you,
- 9 then you have to take care of it. One way or another, it
- 10 has to be fixed. But if they don't know who you are, then
- 11 it is up to the wise guy, how he wants to take care of it.
- 12 Q. Well, there are certainly cases where somebody has
- 13 been assaulted and they have decided to handle it in a
- 14 different manner. Right?
- 15 A. Absolutely.
- 16 Q. And it was left to their discretion. Right?
- 17 A. Right.
- 18 Q. Now, generally, Mr. DiLeonardo, in your experience,
- 19 having been involved in three conspiracy to murder people
- 20 yourself, generally, people in organized crime even though
- 21 the ones you know really well they don't tell you about
- 22 the murders they're involved in, that you weren't involved
- 23 in. Right?
- 24 A. That is not true. They are not supposed to. You
- 25 could be killed exposing those types of secrets, but it's

DiLeonardo - Cross/Ms. Kedia

1974

- 1 done all the time.
- 2 Like I said, if you're in the inner circle, and
- 3 maybe you did some other homicide or serious crimes with
- 4 them, that they gain their confidence because it happened
- 5 to me a lot.
- 6 Q. So, for example, you said you described yourself as
- 7 someone in the inner circle. Right?
- 8 A. Correct.
- 9 Q. And you were in the inner circle even before you were
- 10 a made member of the family. Right?
- 11 A. Right.
- 12 Q. And what does that mean to you, being in the inner
- 13 circle, Mr. DiLeonardo?
- 14 A. Well, inner circle, however, were the guys that did
- 15 the work for the family, who did the killing. They were
- 16 the closest crew to the boss.
- 17 Didn't have to be one, the one captain. It
- 18 could be multiple people from different crews that did the
- 19 homicides for the family.
- 20 Q. Well, how is it that you were in the inner circle
- 21 when you never did any homicides for the family?
- 22 A. Well, I was on the back before I was straightened
- 23 out.
- 24 Q. You were -- I'm sorry?
- 25 A. On the Jack murder before I was straightened out.

DiLeonardo - Cross/Ms. Kedia

1975

- 1 That was like 1983 when I got straightened out, like '88.
- 2 Q. When you were on the Jack murder; that is conspiracy
- 3 you participated in. Right?
- 4 A. Right.
- 5 Q. You testified that you were never a shooter in any of
- 6 these murders. Right?
- 7 A. Yes, you're part of a conspiracy when someone gets
- 8 killed.
- 9 Q. There are a number of other murders that were
- 10 committed, you said 19. Right?
- 11 A. Right.
- 12 Q. That you weren't involved in. Right?
- 13 A. Right. Jack, I think, was one of them.
- 14 Q. That was one that Sammy Gravanno did
- 15 A. He said so.
- 16 Q. Pled to and that you were involved in?
- 17 A. Right. Him. Right. Right.
- 18 Q. And Fred Weiss is one that he was involved in and
- 19 that you were involved in. Right?
- 20 A. That's correct.
- 21 Q. But he didn't tell the government about your
- 22 involvement. Right?
- 23 A. Not as far as I know. Right. No, he left me out.
- 24 Q. But -- but there are 17 others, Mr. DiLeonardo, that
- 25 you as a member of the inner circle were involved in. Is

DiLeonardo - Cross/Ms. Kedia

1976

- 1 that right?
- 2 A. Right. I don't believe Sammy was charged with the
- 3 Weiss conspiracy murder that I'm thinking about. He
- 4 wasn't charged with it.
- 5 Q. So he pled guilty to 18 other murders that you
- 6 weren't involved in. Is that right?
- 7 A. That's correct.
- 8 Q. Even though you were part of the inner circle?
- 9 A. Yes.
- 10 Q. Now, a person by the name of Mike Perdisotos (ph).
- 11 That name mean something to you?
- 12 A. Mikey Boy.
- 13 Q. Someone you know?
- 14 A. Sure.
- 15 Q. Someone you knew very well?
- 16 A. Not very well. He was from my neighborhood growing
- 17 up. And I knew him, but he spent a lot of time in jail,
- 18 20, 25 years.
- 19 Q. Do you recall testifying that you knew him very well?
- 20 A. Yeah, I know him. I was a kid. But like I said, as
- 21 he got older, he was in jail a lot.
- 22 Q. Well, he did things on his own, murders that he was
- 23 involved in that he didn't tell about. Right?
- 24 A. He didn't tell the boss about. Yes.
- 25 Q. And did he tell you about it?

DiLeonardo - Cross/Ms. Kedia

1977

- 1 A. Absolutely.
- 2 Q. And you said he didn't even tell the boss about it?
- 3 A. Yes.
- 4 Q. Things he did on his own?
- 5 A. Right.
- 6 Q. And, in fact, I believe that you have testified that
- 7 John Gotti, Jr., wasn't aware of your involvement in the
- 8 Weiss murder or the Jack murder. Right?
- 9 A. I believe that is correct.

(Continued on the following page.)

DiLeonardo - Cross/Kedia**1978**

- 1 CROSS-EXAMINATION
 2 BY MS. KEDIA:
 3 Q In fact, Mr. DiLeonardo, you testified that you
 4 didn't discuss murders with anyone who wasn't involved,
 5 right?
 6 A I talked to Eddie about it, Eddie was involved with
 7 the Jack murder, yeah, just about.
 8 Q Meaning you talked to someone who was involved?
 9 A Right.
 10 Q Not to anyone that wasn't involved?
 11 A No. I don't recall.
 12 Q In fact, it is a rule within organized crime not to
 13 discuss murders with anyone not involved?
 14 A Like I said, you could be killed for it, but it's
 15 done all the time. I have had captains and underbosses
 16 talk to me about those things all the time.
 17 Q Common talk about things they did you weren't
 18 involved in?
 19 A Right.
 20 Q There was no sanction, is that right?
 21 A No.
 22 Q There was absolutely nothing done to them for doing
 23 so, right?
 24 A Somebody would have to go make a complaint, and I
 25 wasn't about to.

DiLeonardo - Cross/Kedia**1979**

- 1 Q If somebody doesn't make a complaint, it may be that
 2 the administration, the boss, never hears about it, right?
 3 A Sure.
 4 Q Certainly you can't take revenge when you don't know
 5 something happened, right?
 6 A Absolutely.
 7 Q You were asked on direct examination, Mr. DiLeonardo,
 8 if you came to learn during your involvement in organized
 9 crime that there is a minimum requirement of the number of
 10 people who participated in a mob hit and you said no. Do
 11 you recall that?
 12 A Yes.
 13 Q Similarly, you stated there is no requirement that a
 14 mob hit be carried out in a particular way?
 15 A Right.
 16 Q Do you recall testifying in a recent trial about the
 17 murder of two people called the Uvas?
 18 A Sure.
 19 Q This has nothing to do with this case, right?
 20 A No.
 21 Q This was testimony that you were providing in a case
 22 that was affiliated -- someone affiliated with the Gambino
 23 family, your family?
 24 A Right.
 25 Q The Uvas were two people, not organized crime figures

DiLeonardo - Cross/Kedia**1980**

- 1 themselves?
 2 A No.
 3 Q They were a husband and wife team, like a Bonnie and
 4 Clyde of sorts, that robbed social clubs of people
 5 involved in organized crime, right?
 6 A Right.
 7 Q Do you remember stating in connection with the murder
 8 of those two non-organized crime figures that you could
 9 never have two people do a hit like that, that you need at
 10 least eight?
 11 A On that particular hit, yes.
 12 Q Those are two people who weren't involved in
 13 organized crime?
 14 A Yes.
 15 Q There are within your family, within the Gambino
 16 family, there came a point where there were some unsolved
 17 mysteries in the family, right?
 18 A Yes.
 19 Q Several guys had been killed and you weren't sure
 20 what was happening?
 21 A That's correct.
 22 Q There was a point that you actually -- you and Peter
 23 Gotti, Peter Gotti was at some point running the family,
 24 right?
 25 A Absolutely.

DiLeonardo - Cross/Kedia**1981**

- 1 Q This is in the late 1990s early 2000?
 2 A He was the acting boss and then became the official
 3 boss at that time.
 4 Q In that time period?
 5 A Yeah.
 6 Q There was a plan that you and Peter Gotti had a
 7 secret plan to pretend that you weren't getting along with
 8 each other, hoping that you would get some information
 9 about these murders that were unsolved, right?
 10 A No, not about the murders. Well, it was a multitude
 11 of things, but could have been something like that, yeah.
 12 Wasn't just specifically for that.
 13 Q Meaning it wasn't only for the murders, it may have
 14 been for other reasons as well?
 15 A Yeah.
 16 Q So maybe people would confess things to you they
 17 wouldn't necessarily tell to Peter Gotti?
 18 A Correct.
 19 Q Thinking you two were on the outs?
 20 A Somewhat, yes.
 21 Q That was the point of this pretension, right?
 22 A Yeah, but I can't be totally on outs with the boss.
 23 That's anarchy. It was like a little discontent, it
 24 wasn't easy to be discontentful with Pete.
 25 Q That's what you were trying to portray to others?

DiLeonardo - Cross/Kedia**1982**

1 A Yes, I'm trying to clarify so you can see the
 2 picture.
 3 Q In fact, you convinced people you were unhappy with
 4 Pete's position?
 5 A Like I said, it wasn't hard to convince people, a lot
 6 of people were unhappy with Pete.
 7 Q A lot of people were unhappy?
 8 A Sure.
 9 Q So you were able, you were easily able to convince
 10 people of this?
 11 A Right.
 12 Q And during that time period that you were pretending
 13 to be on the outs with Pete Gotti, were you able to solve
 14 some of these mysteries in your family?
 15 A No, going back to specifically with those three
 16 people that were killed?
 17 Q What three people are you referring?
 18 A Eddie Lino, Frank DeCicco, Bobby Boriello.
 19 Q Go ahead.
 20 A Is that where you are?
 21 Q Are those three of the people unsolved and part of
 22 the reason for the pretension?
 23 A Yes. Going back to when, I would say '94, '93, it
 24 started to come out this rumor that Danny Marino and Jimmy
 25 Brown might have been involved in this stuff. I have

DiLeonardo - Cross/Kedia**1983**

1 talked to Junior about this, John, Jr.
 2 Q If I may interrupt, you talked about two people who
 3 were potentially involved just now, Danny Marino.
 4 A And Jimmy Failla.
 5 Q Tell the jury who Danny Marino and Jimmy Failla are.
 6 A They were captains in our family. Jimmy was on the
 7 committee at one point when John Senior first went to
 8 jail.
 9 Q You believed the two of them may have been involved
 10 in certain murders without sanctions?
 11 A Yes.
 12 Q Without the approval of the boss?
 13 A Yes, they were aligned with the Lucchese family and
 14 the Genovese family, and they were going to sit in the
 15 background and kill several of our guys until there is a
 16 vacuum and put them in place.
 17 Q In fact, you believed that to be true, right?
 18 A Yes. We talked about, matter of fact, John Junior
 19 and I talked about killing Dan Marino, then later on same
 20 thing with Pete, we talked about what we were going to do
 21 with Danny when he came home from jail. There was and
 22 option of killing Danny.
 23 Q When you say you talked about it, you formed a
 24 conspiracy to murder another person you didn't plead
 25 guilty to?

DiLeonardo - Cross/Kedia**1984**

1 A No. The legality of conspiracy, I really can't tell
 2 you, but we didn't take no action in furtherance of that.
 3 We spoke of if he was part of this plot, if we could prove
 4 it, then we would kill Danny. It wasn't saying when Danny
 5 comes home we are killing him.
 6 Q You mean you discussed it and nothing ever happened?
 7 A Right. It was left up to Pete at that time. When
 8 Danny came home, I spoke to him about it and then Pete met
 9 him face up and straightened it out at that point.
 10 Q Straightened it out, meaning resolved the situation?
 11 A Yes.
 12 Q Nothing certainly was ever done to Danny Marino?
 13 A He is still alive, as far as I know, sure.
 14 Q Now, when you say that you -- I believe you said as
 15 far as the legality of the conspiracy to murder, no action
 16 was taken, so you didn't feel the need to say you
 17 conspired to murder this person, is that right?
 18 A No, that was up to the government, is what I pled
 19 guilty to. If they would have said you are guilty of
 20 conspiracy to murder, I would have pled to that also.
 21 Q Meaning based on the information you gave to the
 22 government, they decided what you would actually plead
 23 guilty to?
 24 A Sure.
 25 Q You didn't have a say in it?

DiLeonardo - Cross/Kedia**1985**

1 A No.
 2 Q So even though you actually went and tried to save
 3 Frank Hydell's life, right?
 4 A Yes.
 5 Q You testified you went and tried to save his life?
 6 A Absolutely.
 7 Q You tried to stop him from being killed, right?
 8 A Yes.
 9 Q But you pled guilty to the conspiracy to murder
 10 because the government told you you had to?
 11 A They explained to me, and my lawyer explained to me
 12 that I facilitated his murder by passing a message which
 13 inevitably led to his death, because I facilitated a
 14 message.
 15 Q Even though after you facilitated the message, it is
 16 after you facilitated the message you tried to save him,
 17 right?
 18 A It was probably right in that time. Within a week or
 19 so I would say.
 20 Q Meaning you started spreading the rumor he might be a
 21 rat?
 22 A I didn't spread the rumor.
 23 Q You told somebody?
 24 A I told several people, yeah.
 25 Q And then you went to somebody else and said well, I

DiLeonardo - Cross/Kedia**1986**

1 don't think it does any good to kill him anyway?
 2 A No, it was Thomas -- we jumped ahead, it was
 3 Carbanaro who killed him, who killed Parasole, that's the
 4 individual, and his nephew was the one who shot Parasole.
 5 Q Carbanaro killed Frank Hydell?
 6 A He was on the crew that killed him.
 7 Q Carbanaro killed Frank Hydell, and his nephew is the
 8 person who killed this other person without permission,
 9 Frank Parasole?
 10 A Right. At this time, I had told him there was like
 11 30 or 40 people in the club when this guy got shot. 30 or
 12 40 witness in this club.
 13 Q Mr. DiLeonardo, when you say this guy, you were
 14 talking about Frank Parasole?
 15 A That's right. When he got killed, they were watching
 16 the Super Bowl when Lenny decided to shoot this guy.
 17 There were 30, 40 people there. The rumor about Hydell
 18 had started before I learned firsthand about Hydell. It
 19 was out there, he may have been cooperating already.
 20 When I tell Eddie and Huck about this, I said
 21 what are we going to do, kill everybody? There were 30 or
 22 40 people in there. Every time we hear a guy may
 23 cooperate, we gonna kill him? We would need a cemetery.
 24 I suggested maybe these guys turn themselves in, plead to
 25 manslaughter, accidental death, maybe we can put it behind

DiLeonardo - Cross/Kedia**1987**

1 everybody.
 2 Q When you say you suggested, you were a captain at the
 3 time, right?
 4 A Right.
 5 Q These other two individuals, one of them was not even
 6 a made member, right?
 7 A Huck was made. I never talked to Lenny.
 8 Q You never spoke to Lenny?
 9 A No.
 10 Q Huck was a made guy?
 11 A Right.
 12 Q He was someone lower in rank to you?
 13 A Yes.
 14 Q Someone you could have ordered not do something,
 15 right?
 16 A He wanted me again to clarify, he was with Lou
 17 Valerio.
 18 Q Meaning Lou Valerio was another capital in the
 19 Gambino family at the same time as you?
 20 A Right. After Sammy cooperated, his position was
 21 diminished. He kept his position as captain, but
 22 diminished. I handled Huck, Eddie and some other guys in
 23 Louie's crew. When Huck came to me with this idea about
 24 he was going to kill Hydell, he wanted me to go to Pete
 25 Gotti and get permission, and I told him no, I don't want

DiLeonardo - Cross/Kedia**1988**

1 no part of this.
 2 He said, I'm killing him anyway.
 3 I said, I want no part of this and I said you
 4 got a captain, go see your captain.
 5 Q Did he get permission from his captain?
 6 A I never got that information.
 7 Q You don't know to this day?
 8 A Correct.
 9 Q You certainly know that Pete Gotti wasn't consulted?
 10 A Absolutely.
 11 Q He was the acting boss at the time?
 12 A Right.
 13 Q You have testified that you weren't actually the
 14 shooter in any of the three people -- the three people you
 15 were involved in conspiracies to murder?
 16 A Correct.
 17 Q What does it mean to be a shooter?
 18 A The one who pulls the trigger.
 19 Q The person who actually does the shooting, right?
 20 A Correct.
 21 Q Sometimes there are several shooters involved in a
 22 murder?
 23 A Right.
 24 Q And sometimes there are a couple of shooters
 25 specifically designated to be involved, right?

DiLeonardo - Cross/Kedia**1989**

1 A Right.
 2 Q Now, you testified that all three of these people
 3 that you were involved in conspiring to murder were, in
 4 fact, murdered?
 5 A As far as I know, yeah.
 6 Q Well, you testified that all three of them were shot
 7 dead, right?
 8 A Like I said, I never seen Jack's body. I don't
 9 believe it was ever found.
 10 Q So when you say that he was shot dead, that's not
 11 something you actually know?
 12 A I wasn't at the scene. I wasn't in the place when he
 13 was shot.
 14 Q So when you testified, Mr. DiLeonardo, on direct
 15 examination that all three of them were shot dead, you
 16 don't know, sitting here on that witness stand, that Jack
 17 was actually shot?
 18 A I was told he was shot.
 19 Q You were told by others?
 20 A Sure.
 21 Q Who told you that?
 22 A Gravano, Garafola, Molito.
 23 Q They told you the manner in which they killed him?
 24 A I believe Molito told me that Joe D'Angelo, some guy
 25 who is dead, did the shooting.

DiLeonardo - Cross/Kedia

1990

- 1 Q It was just one person that did the shooting?
- 2 A Right.
- 3 Q What about the other two people?
- 4 A Who did the shooting?
- 5 Q How do you know they were shot dead?
- 6 A The bodies were found.
- 7 Q You weren't present for any of them, right?
- 8 A No, the bodies were found in the street.
- 9 Q Meaning they were left just for public viewing?
- 10 A Correct.
- 11 Q And you learned about it subsequently?
- 12 A Right.
- 13 Q Did people tell you on those occasions they shot
- 14 these --
- 15 A Huck did, Carbanaro did.
- 16 Q You testified about occasions where someone left a
- 17 canary in someone's mouth?
- 18 A Right.
- 19 Q When was that?
- 20 A I would say he was found somewhere in the late '80s,
- 21 early '90s, Bruno Facciolo, a wiseguy with the Lucchese
- 22 family, a wiseguy.
- 23 Q How do you know about the canary being left in his
- 24 mouth?
- 25 A I read about it.

DiLeonardo - Cross/Kedia

1992

- 1 Q You testified that you were denied bail because you
- 2 were a danger to the community, right?
- 3 A That's what the judge ruled, yes.
- 4 Q And you testified here that you are, in fact, a
- 5 danger to the community because you were with the Gambino
- 6 family, right?
- 7 A Right.
- 8 Q But certainly there were other occasions, for
- 9 example, your Atlanta case, on which you were acquitted,
- 10 right?
- 11 A Yes.
- 12 Q Your Atlanta case, you were granted bail?
- 13 A Right.
- 14 Q At the time, certainly it was known that you were
- 15 with the Gambino family, right?
- 16 A Sure.
- 17 Q But it was a much less serious charge, right?
- 18 A I don't know. \$50 million money laundering and the
- 19 numbers were draconian, 20 years and up, if I was
- 20 convicted of everything.
- 21 Q Meaning you were facing a lot of time?
- 22 A Yes.
- 23 Q Not life, but a lot of time?
- 24 A 20 years is a lot of time.
- 25 Q But it was a monetary charge, right?

DiLeonardo - Cross/Kedia

1991

- 1 Q You read about it?
- 2 A Yes.
- 3 Q No one came and told you this is what we did?
- 4 A No.
- 5 Q You have seen things on A&E that you have come and
- 6 testified about?
- 7 A No, I didn't see things on A&E.
- 8 Q Where did you read about it?
- 9 A One of those journals 15 years ago, maybe more.
- 10 Q What about somebody's hand being chopped off, is that
- 11 what you heard about, too?
- 12 A I read those stories before.
- 13 Q So when you testified about things in the courtroom,
- 14 on those occasions, for example, it's not from something
- 15 you personally have knowledge about?
- 16 A Well, a lot of things, like I said, I'm not on the
- 17 scene but other people have told me.
- 18 Q Those things weren't what people told you, they were
- 19 things you read about elsewhere?
- 20 A Right.
- 21 Q Now, you testified -- let's talk about your
- 22 cooperation.
- 23 You were arrested on the Fred Weiss murder in
- 24 June of 2002?
- 25 A Right.

DiLeonardo - Cross/Kedia

1993

- 1 A And extortion and money laundering and racketeering.
- 2 Q It certainly wasn't murder, like you were charged
- 3 with in 2002, right?
- 4 A That's correct.
- 5 Q In fact, the reason that you were denied bail in that
- 6 case is that you were charged with something like murder,
- 7 right?
- 8 A Right. Other people have gotten out on bail with
- 9 murders.
- 10 Q Other people have?
- 11 A Sure.
- 12 Q They may have various restricted conditions placed on
- 13 them, right?
- 14 A Correct.
- 15 Q But there are situations where a judge lets someone
- 16 out on bail, even though they are charged with murder and
- 17 even though they are known to be involved in organized
- 18 crime?
- 19 MR. GOLDBERG: Objection. Asked and answered.
- 20 THE COURT: Not that particular one. I will
- 21 allow it.
- 22 A Yes, they were allowed out on bail.
- 23 Q In doing so, it's determined that they are not a
- 24 danger to the community, right?
- 25 A I didn't read the bail application, but I would

<p style="text-align: center;">DiLeonardo - Cross/Kedia</p>	<p style="text-align: center;">DiLeonardo - Cross/Kedia</p>
<p style="text-align: right;">1994</p> <p>1 assume, though, whatever agreement was made.</p> <p>2 Q Now, you testified, I believe, that you first started</p> <p>3 talking to the government around November of 2002 when you</p> <p>4 were let out on bail for a couple of weeks, right?</p> <p>5 A Right.</p> <p>6 Q But then you had your suicide attempt and you ended</p> <p>7 up back in the MCC, right?</p> <p>8 A Right.</p> <p>9 Q And in fact, you started cooperating, what you called</p> <p>10 in earnest, in March of 2003?</p> <p>11 A Right.</p> <p>12 Q So nearly a year after you were arrested?</p> <p>13 A Right.</p> <p>14 Q And in the meantime, you were put on the shelf,</p> <p>15 right?</p> <p>16 A Yes.</p> <p>17 Q And the family had accused you and Eddie Garafola of</p> <p>18 robbing or hiding money from the family, \$15,000 a month</p> <p>19 from a steel company, right?</p> <p>20 A Right.</p> <p>21 Q You said that that was a lot, right?</p> <p>22 A Absolutely.</p> <p>23 Q Why was such an accusation made?</p> <p>24 A I have no idea. Sometimes they have to make excuses</p> <p>25 to do something to somebody that is popular to take them</p>	<p style="text-align: right;">1996</p> <p>1 actually stealing?</p> <p>2 A I believe this time I believed him when he said he</p> <p>3 wasn't.</p> <p>4 Q Was he also put on the shelf with you?</p> <p>5 A I'm not sure. When I got that message, I know it was</p> <p>6 three or four others, so I'm not sure if I learned he was</p> <p>7 one of those three or four.</p> <p>8 Q He was?</p> <p>9 A If he was one of those three or four others.</p> <p>10 Q But regardless, Mr. DiLeonardo, there are secrets,</p> <p>11 secrets that you kept within the family?</p> <p>12 A Right.</p> <p>13 Q And there are certainly accusations that are made</p> <p>14 that aren't true?</p> <p>15 A Right.</p> <p>16 Q That's just the nature of the business, so to speak,</p> <p>17 right?</p> <p>18 A Like I said, it depends who is lobbying for what kind</p> <p>19 of position and what kind of status. Sometimes they brand</p> <p>20 the guy a cooperator and rat in the street and he gets</p> <p>21 killed and didn't deserve it, like Fred Weiss.</p> <p>22 Q Meaning he wasn't actually cooperating?</p> <p>23 A Right.</p> <p>24 Q It was just rumor that he was?</p> <p>25 A Somebody starts a rumor and then actions sometimes</p>
<p style="text-align: right;">1995</p> <p>1 down or kill them.</p> <p>2 Q When you say someone who is popular, you were</p> <p>3 actually a member of the inner circle, right?</p> <p>4 A Right. That inner circle was about John, Jr. was in</p> <p>5 jail. John Sr. died.</p> <p>6 Q So other members of the family started spreading</p> <p>7 rumors and making accusations that weren't true about you?</p> <p>8 A Yes, I believe so, sure.</p> <p>9 Q What about Eddie Garafola?</p> <p>10 A Eddie had a tendency to dip his hand and then put it</p> <p>11 in his pocket, absolutely.</p> <p>12 Q Meaning it was true about him, he was stealing?</p> <p>13 A Yes, but not that particular incident, what they</p> <p>14 said, but I did cover Eddie up for some of his sins.</p> <p>15 Q Cover?</p> <p>16 A I did cover Eddie up for some of his sins, I would</p> <p>17 have had to kill him.</p> <p>18 Q Meaning that you didn't cover up for him, it would</p> <p>19 have been your obligation to kill him?</p> <p>20 A Absolutely.</p> <p>21 Q So instead, you lied to everybody else about what</p> <p>22 Eddie Garafola was doing?</p> <p>23 A Yes, when John asked me how he was doing, I would say</p> <p>24 good.</p> <p>25 Q And this particular occasion, you said he wasn't</p>	<p style="text-align: right;">1997</p> <p>1 are taken.</p> <p>2 Q When you say people are lobbying for their own</p> <p>3 purposes, people have their own way of getting revenge</p> <p>4 against someone, whether it's a true accusation or false</p> <p>5 accusation?</p> <p>6 A Absolutely.</p> <p>7 Q Now, you testified, of course, that the government</p> <p>8 has decided what it is that you would plead guilty to,</p> <p>9 right?</p> <p>10 MR. GOLDBERG: Objection. I think that</p> <p>11 misstates --</p> <p>12 Q Did the government decide what you would plead guilty</p> <p>13 to?</p> <p>14 A Yes.</p> <p>15 Q One of the things that you have been required to do</p> <p>16 is forfeit certain money, right?</p> <p>17 A Right.</p> <p>18 Q What is the money that you have been required to</p> <p>19 forfeit?</p> <p>20 A I gave up that piece of property.</p> <p>21 Q When you say that piece of property, you are talking</p> <p>22 about a house upstate?</p> <p>23 A No, just land, 51 acres in Roscoe, New York.</p> <p>24 Q So you gave up some land upstate. And what else?</p> <p>25 A I paid money for a ring that I had owed to a jeweler.</p>

DiLeonardo - Cross/Kedia	DiLeonardo - Cross/Kedia
<p style="text-align: right;">1998</p> <p>1 Q You paid money for a ring that you had owed?</p> <p>2 A Yeah.</p> <p>3 Q Meaning -- you are talking about a ring, that</p> <p>4 engagement ring for your then girlfriend, now wife?</p> <p>5 A That's correct.</p> <p>6 Q FBI had actually paid the money for you in the first</p> <p>7 instance?</p> <p>8 A That's correct.</p> <p>9 Q But how much money are we talking about?</p> <p>10 A I think it was probably around 18,000.</p> <p>11 Q \$18,000?</p> <p>12 A Right.</p> <p>13 Q After you started cooperating, the FBI went to the</p> <p>14 jeweler where you wanted to purchase this ring and paid it</p> <p>15 for you?</p> <p>16 A Yes.</p> <p>17 Q Out of their money?</p> <p>18 A No, out of my money, well, my wife's money actually.</p> <p>19 Q You testified you paid it back, right?</p> <p>20 A Yes, it was out of the money from -- my wife had a</p> <p>21 house in Staten Island. She sold it. Upon the sale, the</p> <p>22 government had taken that money, like 560,000, out of that</p> <p>23 560, they took the 18,000, whatever it was, and paid the</p> <p>24 jeweler.</p> <p>25 Q So it wasn't in addition to the money that was</p>	<p style="text-align: right;">2000</p> <p>1 it up with the borgata, the family, and my partners I got.</p> <p>2 They all got and end. I was earning other monies. That</p> <p>3 was stock money.</p> <p>4 Q How much money were you earning?</p> <p>5 A I don't know. At any point could be 50,000 a month,</p> <p>6 60,000 a month.</p> <p>7 Q Hundreds of thousands?</p> <p>8 A I made millions; sure.</p> <p>9 Q And yet you expect to get this 500,000 back from the</p> <p>10 government?</p> <p>11 A Yes.</p> <p>12 Q The government has given money --</p> <p>13 A What do you mean?</p> <p>14 Q You received approximately \$300,000 in expenses?</p> <p>15 A No, like I said, there was expenditures, whatever it</p> <p>16 is, the last time it was 250, 250,000.</p> <p>17 Q When you say the last time that you seen, what do you</p> <p>18 mean?</p> <p>19 A The last trial, the government showed me a marshal's</p> <p>20 statement and delineated about 250,000 expenses for me and</p> <p>21 my family.</p> <p>22 Q When was that?</p> <p>23 A This last trial, I believe, was in April.</p> <p>24 Q April of 2007?</p> <p>25 A Yeah.</p>
<p style="text-align: right;">1999</p> <p>1 received from the sale of your house, it was part of that</p> <p>2 money that went to the ring?</p> <p>3 A Absolutely.</p> <p>4 Q And the remainder of the 560 is something that the</p> <p>5 government has taken?</p> <p>6 A Still has, yes.</p> <p>7 Q Meaning it's holding?</p> <p>8 A Right.</p> <p>9 Q You don't know what is going to happen to it?</p> <p>10 A Correct.</p> <p>11 Q It may be given back to you when you are sentenced?</p> <p>12 A If it's not, Madeline will be very mad.</p> <p>13 Q Madeline your wife?</p> <p>14 A Yes.</p> <p>15 Q She is expecting to get it back?</p> <p>16 A Yes.</p> <p>17 Q I think you testified that at the time that you</p> <p>18 started cooperating, Mr. DiLeonardo, that you were making</p> <p>19 up to \$150,000 a month?</p> <p>20 A No, that was just one deal. It was much more than</p> <p>21 that.</p> <p>22 Q It was much more than that?</p> <p>23 A Yes.</p> <p>24 Q Talking about millions of dollars a year?</p> <p>25 A Yes. The 150, I didn't keep the 150 myself, I broke</p>	<p style="text-align: right;">2001</p> <p>1 Q Certainly monies that been expended since that time?</p> <p>2 A Yes. If I can clear it up, I didn't get 250,000.</p> <p>3 Q I asked you about monies that have been expended on</p> <p>4 your behalf?</p> <p>5 A I didn't get it in my pocket.</p> <p>6 Q But the government has been expending money, right?</p> <p>7 A They have to fly me here, the hotel rooms and things</p> <p>8 like that.</p> <p>9 Q We are not only talking about flying you here and</p> <p>10 hotel rooms, we are talking about your living expenses?</p> <p>11 A No, you said in total, is it my living expenses or</p> <p>12 total? I'm trying to quantify for the jury. I get like</p> <p>13 -- I was getting between 22 and 2500 a month for living</p> <p>14 expenses. Health insurance. They gave me 10,000 for a</p> <p>15 car. Furniture, because when you come into the program,</p> <p>16 you come in with nothing. One little bag. You have to</p> <p>17 buy clothes and all that. They give you money to start</p> <p>18 all over again. You start with nothing.</p> <p>19 Q Where are these millions of dollars that you were</p> <p>20 earning when you were part of the Gambino family?</p> <p>21 A Bookmakers got most of it.</p> <p>22 Q A bookmaker has it?</p> <p>23 A I gambled a lot.</p> <p>24 Q Where is the rest of it?</p> <p>25 A I spent it all.</p>

<p style="text-align: center;">DiLeonardo - Cross/Kedia</p>	<p style="text-align: center;">DiLeonardo - Cross/Kedia</p>
<p style="text-align: right;">2002</p> <p>1 Q You don't have anything left?</p> <p>2 A About 40,000, 50,000 that Madeline has control of.</p> <p>3 Q During the course of your lifetime, you certainly</p> <p>4 cheated the Gottis out of millions and millions of</p> <p>5 dollars?</p> <p>6 A I would say so, yeah.</p> <p>7 Q In fact, I think, Mr. DiLeonardo, when you were asked</p> <p>8 who is supporting you now, you testified that you are</p> <p>9 working yourself with the FBI, that your testimony?</p> <p>10 A Working with?</p> <p>11 Q Yes.</p> <p>12 A Well, when they call me in to debrief, I debrief.</p> <p>13 Q So do you have a job apart from that?</p> <p>14 A No. With all the hours I spend with traveling back</p> <p>15 and forth and phone calls, it's really hard, and plus the</p> <p>16 several moves I have made in my present location -- I was</p> <p>17 there only seven months, and prior to that I was in a</p> <p>18 place for a year.</p> <p>19 I had a problem in one spot and I had a problem</p> <p>20 in this spot. They wanted me to move again, so I haven't</p> <p>21 had any time to have a foundation. My wife has worked,</p> <p>22 but she had to lose her job upon moving.</p> <p>23 Q Basically you are a professional witness?</p> <p>24 A I wouldn't say that I'm a professional. I don't want</p> <p>25 to be here counsel, believe me when I tell you.</p>	<p style="text-align: right;">2004</p> <p>1 approach.</p> <p>2 THE COURT: Come on up.</p> <p>3 (Continued on the next page.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: center;">DiLeonardo - Cross/Kedia</p> <p style="text-align: right;">2003</p> <p>1 Q But you have no choice in the matter, is that right?</p> <p>2 A Yes. I take exception if you tell me I'm a</p> <p>3 professional and I want to sit in this chair today.</p> <p>4 Q Mr. DiLeonardo, you just testified about having to</p> <p>5 move several times, right?</p> <p>6 A Right.</p> <p>7 Q You are talking about relocation and the witness</p> <p>8 protection program?</p> <p>9 A Right.</p> <p>10 Q This is the program that you decided to check out of,</p> <p>11 so to speak, right?</p> <p>12 A It was mutual just about.</p> <p>13 Q When you say mutual, you are talking about the</p> <p>14 Marshal service no longer wanting you in the witness</p> <p>15 protection program?</p> <p>16 A No, they had wanted me to move, like I said, in May</p> <p>17 up until about October. They were trying to move me</p> <p>18 again, and I just couldn't do that to my son and my wife</p> <p>19 again, so like I said, we came -- they would have to</p> <p>20 terminate you if I didn't want to make their move to where</p> <p>21 they wanted me to move, so I agreed to be terminated.</p> <p>22 Q One of the reasons they wanted to move you, Mr.</p> <p>23 DiLeonardo, is that you were actually violating the rules</p> <p>24 of the Marshal service, right?</p> <p>25 MR. GOLDBERG: Objection. Your Honor, may we</p>	<p style="text-align: center;">Sidebar</p> <p style="text-align: right;">2005</p> <p>1 (Sidebar.).</p> <p>2 MR. GOLDBERG: Your Honor, it sounds like you</p> <p>3 were about to sustain my objection. I wanted to ask for a</p> <p>4 sidebar because I'm concerned about security issues and</p> <p>5 this line of questioning.</p> <p>6 THE COURT: That's what I figured.</p> <p>7 MR. GOLDBERG: I know where Ms. Kedia is going</p> <p>8 here, and she is going to be asking the witness about</p> <p>9 violating certain rules of the witness securities program.</p> <p>10 I have no real problem if it's limited in that area, but I</p> <p>11 have concerns about the way she is going to ask the</p> <p>12 questions, identities of individuals and locations that</p> <p>13 may come out. I wanted your Honor to be aware of that.</p> <p>14 MS. KEDIA: In this particular regard, your</p> <p>15 Honor, I only have the intention of asking this witness</p> <p>16 the same questions he was asked at a prior trial, which is</p> <p>17 that while he was in the witness protection program, he</p> <p>18 testified that he continued to have contact with people</p> <p>19 from his old neighborhood in Brooklyn. He testified he</p> <p>20 was at the Pizzonia trial, he would talk on the phone,</p> <p>21 meet them in person, including former criminal associates.</p> <p>22 I don't have any intention of going into specific</p> <p>23 locations that he would meet anyone.</p> <p>24 MR. GOLDBERG: There was testimony about this in</p> <p>25 the Pizzonia trial. It was hotly litigated and I believe</p>

<p style="text-align: center;">Sidebar</p> <p style="text-align: right;">2006</p>	<p style="text-align: center;">DiLeonardo - Cross/Kedia</p> <p style="text-align: right;">2008</p>
<p>1 Judge Weinstein was very circumspect in the way he allowed</p> <p>2 questions to be asked.</p> <p>3 I have grave concerns about this witness</p> <p>4 identifying the names of individuals in the trial that he</p> <p>5 may have met with. If she wants to be generic about it...</p> <p>6 MS. KEDIA: I don't have any intention of going</p> <p>7 into a particular individual who he met with.</p> <p>8 THE COURT: How many people was he seeing?</p> <p>9 MS. KEDIA: He said eight to ten.</p> <p>10 MR. GOLDBERG: I believe it was two.</p> <p>11 MS. KEDIA: He testified eight to ten.</p> <p>12 MR. GOLDBERG: The point is, Judge, we should be</p> <p>13 careful in this area.</p> <p>14 THE COURT: I know.</p> <p>15 MS. KEDIA: I don't intend to bring up any.</p> <p>16 THE COURT: No names and no questions that would</p> <p>17 lead to names. Thank you.</p> <p>18 (Sidebar concluded.)</p> <p>19 (Continued on the next page.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Q Mr. DiLeonardo, do you recall at a prior trial in</p> <p>2 April of 2007 --</p> <p>3 MS. KEDIA: Your Honor, it's MDL 159, starts at</p> <p>4 the bottom of page 1453.</p> <p>5 Q Do you recall at that trial being asked questions</p> <p>6 about the witness protection program?</p> <p>7 A Yes.</p> <p>8 Q And Mr. DiLeonardo, let me see if I understand this,</p> <p>9 did you ever tell the prosecutors:</p> <p>10 Question: Until Mr. Corrozzo brought this up</p> <p>11 yesterday --</p> <p>12 Mr. Corrozzo was the defense lawyer questioning</p> <p>13 you?</p> <p>14 A Right.</p> <p>15 Q Did you ever tell the prosecutors:</p> <p>16 Until Mr. Corrozzo brought this up yesterday, I</p> <p>17 think that you were doing this.</p> <p>18 Answer: I never told the prosecutors.</p> <p>19 Question: So you hid this information from the</p> <p>20 prosecutors?</p> <p>21 Answer: Yes, that I had met with them, yes.</p> <p>22 A Yeah, I met with them. Like I said, they known I was</p> <p>23 talking to them prior to that, but I met them, I took it</p> <p>24 upon myself and met with them, sure.</p> <p>25 Q You were talking about former criminal associates,</p>
<p style="text-align: center;">DiLeonardo - Cross/Kedia</p> <p style="text-align: right;">2007</p> <p>1 (In open court.)</p> <p>2 BY MS. KEDIA: (Cont'd)</p> <p>3 Q Mr. DiLeonardo, I believe I just asked you about the</p> <p>4 fact that you violated certain of the rules, right?</p> <p>5 A That's correct.</p> <p>6 Q And in fact, while you were in the witness protection</p> <p>7 program, you had contact with eight to ten people from</p> <p>8 your old neighborhood in Brooklyn, right?</p> <p>9 A I would say less than that. I would say including</p> <p>10 family members.</p> <p>11 Q You would talk on the phone with people and meet them</p> <p>12 in person, right?</p> <p>13 A Sure.</p> <p>14 Q And these people included your former criminal</p> <p>15 associates, right?</p> <p>16 A Yes.</p> <p>17 Q And this is information that you hid from the</p> <p>18 prosecutors at the time that you were doing it, right?</p> <p>19 You were talking to former criminal associates and didn't</p> <p>20 tell the prosecutors about it, right?</p> <p>21 A No, I had permission from when I was in the Marshal</p> <p>22 service in Wit Seg, the person was on my approved list. I</p> <p>23 was talking to them when I was in jail. The Marshals had</p> <p>24 approved the list and the government approved the list at</p> <p>25 the time.</p>	<p style="text-align: center;">DiLeonardo - Cross/Kedia</p> <p style="text-align: right;">2009</p> <p>1 right?</p> <p>2 A Right.</p> <p>3 Q People that you met with behind the government's</p> <p>4 back?</p> <p>5 MR. GOLDBERG: Objection. Asked and answered.</p> <p>6 THE COURT: Overruled.</p> <p>7 A Yes, I didn't apprise them.</p> <p>8 Q And in doing so, Mr. DiLeonardo, you not only hid</p> <p>9 something from the government, but you in fact violated</p> <p>10 your agreement with the Marshal service, is that right?</p> <p>11 A I broke a rule, yes, absolutely.</p> <p>12 Q And since then, you obviously have either the Marshal</p> <p>13 service or you as a mutual decision opted out of the</p> <p>14 program?</p> <p>15 A Right, because of the move, not because of that.</p> <p>16 Q Well, Mr. DiLeonardo, I asked you earlier about your</p> <p>17 ex-wife Toni Marie and your son?</p> <p>18 A Right.</p> <p>19 Q You know that they came in and testified on behalf of</p> <p>20 John Gotti, Jr., right?</p> <p>21 A Right.</p> <p>22 Q In fact, they are certainly living openly and</p> <p>23 notoriously, they are not hiding out?</p> <p>24 A Right.</p> <p>25 Q And your ex-wife Toni Marie is not only your ex-wife,</p>

DiLeonardo - Cross/Kedia**2010**

- 1 but she is also the sister of another cooperating witness,
 2 Frank Fappiano?
 3 A That's right.
 4 Q Now, you were in prison for a period of time after
 5 you were charged with the Fred Weiss murder?
 6 A Three years.
 7 Q And then you were let out, right?
 8 A Two weeks.
 9 Q No, you were let out after the three years, right,
 10 you were out of prison for a significant period of time?
 11 A Right, since July of '05, I believe.
 12 Q And you haven't been sentenced yet?
 13 A Right.
 14 Q And you know that you are facing life on the murder
 15 of Fred Weiss, along with the other murders you have pled
 16 guilty to?
 17 A Correct.
 18 Q How is it that you were let out of prison?
 19 A My lawyer applied for bail.
 20 Q It was something that the government agreed to?
 21 A I guess so, I'm here.
 22 Q You just -- when you say you guess so, do you know?
 23 A Well, I guess they didn't oppose it, I'm here, like I
 24 said.
 25 Q Did you have to put up anything for bail?

DiLeonardo - Cross/Kedia**2011**

- 1 A No.
 2 Q Meaning that if you fled, there is no property at
 3 stake, is that correct?
 4 A Right.
 5 Q And no money at stake?
 6 A Right, just my freedom.
 7 Q Now, you just talked about the two weeks that you
 8 were let out, right?
 9 A Right.
 10 Q And when you said two weeks, you are talking about a
 11 period of time before you officially started cooperating,
 12 right?
 13 A Right.
 14 Q And this was a period of time where the government
 15 said we will let you out for two weeks to visit your
 16 mother, she was sick, right?
 17 A Correct.
 18 Q But here is what you have to do for us, which is make
 19 these tape recordings?
 20 A Correct.
 21 Q Every single time you leave this house, you have to
 22 wear this wire?
 23 A Correct.
 24 Q And your understanding was after this two-week
 25 period, you were going to a safe house?

DiLeonardo - Cross/Kedia**2012**

- 1 A Right.
 2 Q Not back to jail?
 3 A Correct.
 4 Q Why was that?
 5 A For further debriefings.
 6 Q Why was your understanding you were going to a safe
 7 house as opposed to a jail?
 8 A I was going to be with my family, not alone.
 9 Madeline and Anthony would be there also after the
 10 transition. I was going to go back to a facility, WIT SEG
 11 facility instead of in the MCC.
 12 Q It was a surprise to you when you went back to jail?
 13 A I knew once I woke up, Madeline woke me up, I knew I
 14 was going.
 15 Q When you say woke you up, because in the interim you
 16 had had this suicide attempt?
 17 A Like I said, when I woke up in the hospital, I knew I
 18 was alive, I knew where I was going.
 19 Q Now, you have done three years at this point in time,
 20 right?
 21 A Right.
 22 Q This was your first experience in jail, right, when
 23 you were arrested in June of 2002 and then decided to
 24 cooperate?
 25 A Right.

DiLeonardo - Cross/Kedia**2013**

- 1 Q Even though you had been arrested on prior occasions,
 2 you never spent time incarcerated?
 3 A Right.
 4 Q Now, you decided to cooperate at a time you were
 5 aware certainly of deals that other cooperators had
 6 received?
 7 A Correct.
 8 Q You knew Sammy Gravano got five years for his 19
 9 murders?
 10 A Correct.
 11 Q And Al D'Arco confessed to eight or 12 murders and he
 12 got no jail time?
 13 A Right.
 14 Q You testified that your understanding is that the
 15 sentence, your sentence, doesn't depend on the outcome of
 16 the trials that you have been testifying in, right?
 17 A Right.
 18 Q And in fact, for example, you testified in three
 19 separate trials against John Gotti, Jr. where there was no
 20 conviction, right?
 21 A Right.
 22 Q And you were the main witness?
 23 MR. GOLDBERG: Objection.
 24 THE COURT: Sustained.
 25 Q Now, Mr. DiLeonardo, you talked about a 5K letter

DiLeonardo - Cross/Kedia

2014

1 that you expected to receive, right?

2 A Right.

3 Q That you do expect to receive, right?

4 A Right.

5 Q What is a 5K letter?

6 A I believe it's a letter written by the U.S.

7 Attorney's office as to all the bad acts you have done in

8 your life, all your crimes, and a compile of your

9 testimony and debriefings and stuff like that.

10 Q And the purpose of the letter is to ask for a

11 reduction in your sentence based on your cooperation with

12 the government, right?

13 A Right.

14 Q And that is the deal that you make with the

15 government, right, you testify and they will write you

16 this letter, right?

17 A Right, if they feel you are truthful, sure.

18 Q Now, let me ask you this: Do you know anyone who

19 testified and the government determined that they had

20 given them information, they were satisfied with the

21 information that they were given and they didn't get a

22 tremendous reduction in their sentence?

23 A Oh, yeah.

24 Q Really. Who is that?

25 A A guy I was with in one of the Wit Segs, I don't know

DiLeonardo - Cross/Kedia

2015

1 if I can say his name, but he got 16 years.

2 Q That wasn't here in New York?

3 A Yeah, it was in New York.

4 Q Who was the judge?

5 MR. GOLDBERG: Objection.

6 THE COURT: Sustained.

7 Q Mr. DiLeonardo, who is the judge that is going to

8 sentence you?

9 A The judge who is going to sentence me?

10 Q Who is the judge that's going to sentence you? It's

11 certainly not Judge Seybert?

12 A No; Judge Casey. He died.

13 Q So somebody is going to impose sentence on you?

14 A Absolutely.

15 Q Do you know who that is?

16 A No.

17 Q Do you know when you are going to be sentenced?

18 A No.

19 Q Do you have and understanding why, even though you

20 pled guilty more than four years ago, you haven't been

21 sentenced?

22 A No.

23 Q Do you expect to go back to jail?

24 A I pray I don't.

25 Q Mr. DiLeonardo, I asked you questions last week about

DiLeonardo - Cross/Kedia

2016

1 your knowledge about other people cooperating and lying to

2 government, do you remember that?

3 A Yeah.

4 Q And in fact, I was asking you about your

5 brother-in-law, Frank Fappiano cooperating and lying to

6 the government, right?

7 A I never read Frankie's stuff, so I don't know what

8 exactly he said. If you show me something, I will be glad

9 to answer it.

10 Q Mr. DiLeonardo, do you remember testifying in a

11 proceeding in April of 2007 and being asked these

12 questions and giving these answers.

13 MS. KEDIA: Page 970, your Honor, MDL 159.

14 Q Page 970, line 1:

15 Question: Did you ever send your

16 brother-in-law Frank Fappiano to George Conti to borrow

17 \$30,000?

18 Answer: That's and absolute lie, and I pulled

19 out my brother's 302s, that was a lie. Frankie moved the

20 30,000 under my name.

21 Question: Okay. So you are aware of a 302

22 that talks about that, right?

23 Answer: Absolutely.

24 Question: Now, a 302 is a reporting or

25 statement given by other cooperating witnesses?

DiLeonardo - Cross/Kedia

2017

1 Answer: That's correct.

2 Question: And you have seen 302s throughout

3 your life?

4 Answer: Yeah, many.

5 Question: You have seen what people have said

6 about you?

7 Answer: Sure.

8 Question: You have seen what people have said

9 about other people, correct?

10 Answer: Correct.

11 Question: And you saw 302s where Frank

12 Fappiano went to George Conti to borrow \$30,000?

13 Answer: Correct.

14 Question: And your testimony is it wasn't for

15 you, correct?

16 Answer: Absolutely not.

17 Question: You believe that Frank Fappiano went

18 to George Conti and said it was for you and kept the money

19 for himself, correct?

20 Answer: Yes.

21 Question: He lied?

22 Answer: I think it was Frankie -- I don't know

23 how you say the last name, G-I-U-A-N-O, who generated that

24 material. I don't know how he got that material. Frankie

25 did not, it's not true, I didn't do it. I said here I

DiLeonardo - Cross/Kedia	DiLeonardo - Cross/Kedia
<p style="text-align: right;">2018</p> <p>1 didn't do it and it didn't go to George Conti. 2 Do you remember being asked those questions and 3 giving those answers? 4 A Yes; you did a good job. 5 Q A situation where a cooperator gave information that 6 you understand was given, you read about it yourself and 7 it was a lie, right? 8 A Absolutely. 9 Q Once you actually started cooperating, you 10 contradicted that information? 11 A I learned about it, yeah, when I was asked the 12 question, absolutely. 13 Q When you say when you were asked the question, you 14 mean at this trial? 15 A If I may interrupt you, that was -- that wasn't 16 Fappiano saying that. I didn't read Fappiano's stuff, 17 which was my ex-brother-in-law. That was Frankie Giuano. 18 I think you got your Frankies flipped. 19 Q That was a different Frankie that you read the 302s 20 about, that you cooperated and he lied? 21 A Right. It was Frank Giuano who cooperated in the mid 22 '90s with the Lucchese family. Those are his words, 23 according to that report, not Frank Fappiano's words. 24 Q Regardless, it's -- 25 A It's not regardless. You said I'm calling Frankie a</p>	<p style="text-align: right;">2020</p> <p>1 life? 2 A Not my whole life, later on when I got straightened 3 out. 4 Q You were straightened out nearly 20 years? 5 A Yes. 6 Q So for 20 years you have been seeing these things? 7 A Yeah. 8 Q You were just asked questions about having read about 9 what people said about you? 10 A Right. 11 Q And what people said about other people? 12 A Right. 13 Q And even since you have been cooperating, you have 14 been reading information about the Mafia? 15 A I was reading the newspapers on the computer for a 16 while. 17 Q When you say "on the computer," you read Jerry 18 Capeci's Gangland article? 19 A Going back. 20 Q From 1992 on? 21 A From when he started, I believe he started the 22 article about in '96, somewhere around there. 23 Q You have been reading it ever since? 24 A I haven't read it in a while, several months. 25 Q What?</p>
<p style="text-align: right;">2019</p> <p>1 liar. I'm calling the reporter a liar. If Frankie did 2 that, said it's a lie. 3 Q You are calling who a liar? 4 A In other words, what you just read, what she read was 5 a fellow named Frankie Giuano. He cooperated in the mid 6 '90s sometimes. The FBI, whoever sat down with Giuano, 7 took that statement. When I read that statement after 8 Giuano cooperates, I go see my brother-in-law Frank 9 Fappiano, is this true, I never went to ask him go borrow 10 30,000, he denies it. So when you said earlier that I 11 called Frank Fappiano a liar, it's incorrect it's Frank. 12 Q You were calling Frank Giuano a liar? 13 A Whatever is in the report, is a lie. 14 Q Or the agent who took the report? 15 A I wasn't there. 16 Q One way or the other, you certainly knew different 17 information? 18 A Absolutely. 19 Q And this is information that, in fact, you said you 20 didn't -- you weren't confronted about and didn't divulge 21 until you were asked these questions about another defense 22 lawyer at another trial, is that right? 23 A You can ask me anything you want. 24 Q Now, Mr. DiLeonardo, these 302s that you were just 25 talking about, these are things you have seen your whole</p>	<p style="text-align: right;">2021</p> <p>1 A Several months. 2 Q Certainly for years after you had been cooperating, 3 right? 4 A Well, I was in prison for a while and didn't have 5 access to a computer. 6 Q You have been out of prison for quite a while, a 7 couple of years? 8 A Yeah. 9 Q And you are aware of the information that is 10 contained in those types of articles? 11 A Yeah, if you want to believe everything that's 12 written by a scribe in and article, yeah. 13 Q I didn't ask you if you believed it. 14 Let me ask you: You certainly don't believe 15 everything you read? 16 A That's correct. 17 Q But you certainly are reading about what people are 18 being charged with? 19 A Yeah. 20 Q People that are your former associates, right? 21 A Right. 22 Q And that is something you have access to, even now as 23 cooperator? 24 A I have a computer, sure. 25 Q Now, you testified about a dispute in the Colombo</p>

DiLeonardo - Cross/Kedia

2022

1 family, I think you might have called it the Colombo war,
 2 right?
 3 A Right.
 4 Q And I believe that you testified that John Gotti, Sr.
 5 actually instigated this war, right?
 6 A Yeah.
 7 Q This is something that started in approximately 1991,
 8 right?
 9 A I thought it was a little before, but okay.
 10 Q You thought it was a little before?
 11 A Yeah.
 12 Q When you say John Gotti, Sr. instigated the war, you
 13 understood that John Gotti, Sr. was incarcerated at the
 14 time the war started?
 15 A Yeah, but the instigating started before when John
 16 was on the street.
 17 Q For years before he tried to cause a problem in the
 18 Colombo family?
 19 A Yeah.
 20 Q And your testimony is that he did it so that he could
 21 actually control another seat on the commission, what you
 22 called the commission, right?
 23 A Yeah, he didn't like Carmine Persico.
 24 Q He didn't like Carmine Persico, who was heading the
 25 Colombo family at the time?

DiLeonardo - Cross/Kedia

2023

1 A Right.
 2 Q And so he started causing problems?
 3 A Right.
 4 Q How is it that you became aware of that, Mr.
 5 DiLeonardo?
 6 A Jack D'Amico, Jackie Nose.
 7 Q Jack D'Amico was your captain?
 8 A Right.
 9 Q And he relayed this information to you?
 10 A Yeah.
 11 Q John Gotti, Sr. certainly wasn't telling you this
 12 information?
 13 A I heard him say at times, that he would make remark
 14 about Carmine.
 15 Q He didn't tell you about instigating the war?
 16 A If you knew John, you know when he was instigating.
 17 Q Meaning you believed -- you were someone who knew him
 18 well?
 19 A I used to see him meet with Vic often, Vic Orena.
 20 Q When you say he saw him meet with Vic Orena, Vic was
 21 someone who became acting boss of the Gambino family while
 22 Carmine Persico was in jail?
 23 A I said meet with Vic.
 24 Q Eat?
 25 A Meet.

DiLeonardo - Cross/Kedia

2024

1 Q And Vic Orena is -- was appointed the acting boss by
 2 Carmine Persico?
 3 A I'm not sure of that, but he was the acting boss,
 4 then he could have been the one to do it, sure.
 5 Q You just said you are not sure of that. Who else
 6 would appoint?
 7 A I wasn't privy to the conversation and wasn't told
 8 Carmine appointed.
 9 Q Would there be any other person that could have that
 10 ability to appoint someone?
 11 A No.
 12 Q It had to be the boss?
 13 A Right.
 14 Q Now, were people -- besides you, were other people
 15 aware that John Gotti, Sr. instigated the war?
 16 MR. GOLDBERG: Objection. Other people aware.
 17 THE COURT: Sustained.
 18 Q Was it public common knowledge among organized crime
 19 members?
 20 MR. GOLDBERG: Objection.
 21 THE COURT: Sustained.
 22 A No.
 23 Q Do you know if the Persicos were aware of whether
 24 John Gotti, Sr. instigated the war?
 25 A There was and occasion where Jackie Nose was saying

DiLeonardo - Cross/Kedia

2025

1 -- Jackie D'Amico was saying things later on. I'm sure it
 2 rippled back to them. Where it came from, again I never
 3 talked to Allie about it, as far as saying John instigated
 4 the war.
 5 Q In all the years -- in the few years you knew this
 6 Mr. Persico, Allie Persico, he never discussed who
 7 instigated the war?
 8 A Well, it wasn't a direct conversation. It was more
 9 indirect, like when Jackie was saying bad things about
 10 Carmine Persico. I put Al and Jackie together so Jackie
 11 could apologize. He was calling -- he was using John's
 12 words to call Carmine a rat and all the other stuff, which
 13 he was not a rat, that's ridiculous, but Allie had heard
 14 about it, and I put Jackie together with him for Jackie to
 15 apologize.
 16 Q When you say you put Allie and Jackie together, you
 17 are talking about your captain, Jackie D'Amico?
 18 A He wasn't my captain at the time.
 19 Q In fact, you were a captain at the time?
 20 A Right.
 21 Q You are talking about Jackie D'Amico, the person that
 22 used to be your captain, the person that introduced you to
 23 Mr. Persico?
 24 A Right.
 25 Q And you put the two of them together, what does that

DiLeonardo - Cross/Kedia**2026**

1 mean?

2 A I made Jackie go to Allie, have a meeting and they

3 went for a walk and I walked behind them, and Jackie, from

4 what I understand, said he was sorry.

5 Q When you say you made him do this, what does that

6 mean, Mr. DiLeonardo?

7 A What do you mean?

8 Q You certainly can't give Jackie D'Amico orders?

9 A Again, I was close to the Gottis, and I had a lot to

10 say, and I asked Jackie to go meet him and explain this.

11 We tried to put some kind of peace. I tried to buffer

12 this to make peace with the families.

13 There was this Gotti faction that started this

14 thing. They should have never started with the Persico

15 family, and I was patching it up, and I got along great

16 with Allie, I loved Allie, and our family was wrong, John

17 was wrong, and I tried to do my best to put things

18 together.

19 Q When was this meeting that you have described now

20 between Jack D'Amico and Allie Persico?

21 A I would say somewhere in '97.

22 Q Within a few months or a year after you first met Mr.

23 Persico?

24 A I believe I met him, what did I say, '95, '96, around

25 there.

DiLeonardo - Cross/Kedia**2027**

1 Q So you, in fact, was the person who was the liaison?

2 A Right. I also put him and Pete Gotti together, the

3 boss, to straighten things out.

4 Q Let's talk about that. You say you put him and Pete

5 Gotti together, when was that?

6 A I would say mid '99.

7 Q Mid 1999?

8 A I believe so.

9 Q John, Jr. actually was out of jail at that time,

10 right?

11 A No, he was in jail. He was arrested in January '99.

12 He was detained for some eight or nine months, I believe.

13 Then had strict house arrest. Then sometime in '99, I

14 believe fall of '99, Junior went to jail, went to

15 Raybrook.

16 Q In October of 1999 he surrendered himself?

17 A Full, yes.

18 Q In mid 1999, he was out of jail, right?

19 A No, he was out of jail for a portion of that time,

20 but like I said, he was indisposed on strict house arrest.

21 Q Your testimony is that during that time period, you

22 had Pete Gotti meet with Mr. Persico?

23 A He was the acting boss at the time.

24 Q When did Pete Gotti become the acting boss?

25 A I would say mid '98.

DiLeonardo - Cross/Kedia**2028**

1 Q Right after Junior got arrested?

2 A Yeah, sometime around that, I would say.

3 Q And this meeting that you say occurred between Pete

4 Gotti and Mr. Persico in mid 1999, was that before or

5 after Billy Cutolo disappeared?

6 A I believe it was after.

7 Q Now, where was this meeting?

8 A Staten Island, it was a restaurant on the water, I

9 believe the street was Ellis Street, I think, on the

10 water.

11 Q What was the purpose of this meeting?

12 A Again, to put this, like I said, I had been trying to

13 get Junior for a period of time to meet with him to put

14 this to sleep, all these bad feelings, and I was pushing

15 Pete, and I finally told Pete, Pete, you have to meet this

16 guy, we gotta get this to rest and you have to meet him

17 face up, you are the acting boss, I'm not. So I convinced

18 Pete to go and put them together.

19 Q Did you ever try to arrange such a meeting between

20 Junior and Billy Cutolo?

21 A No.

22 Q Ever try to arrange such a meeting between Pete Gotti

23 and Billy Cutolo?

24 A No.

25 Q When this meeting -- you said you were trying to make

DiLeonardo - Cross/Kedia**2029**

1 peace?

2 A Right.

3 Q At this time, this is after Billy Cutolo disappeared?

4 A I believe so, yeah.

5 Q At this time, you certainly believed Mr. Persico to

6 be the acting boss of the Colombo family at that time,

7 right?

8 A Correct.

9 Q You believed that he would continue being the acting

10 boss of the Colombo family for whatever period of time,

11 right?

12 A Right.

13 Q And that's why this meeting was being had, right?

14 A Right.

15 Q There wasn't any view in your mind at that point in

16 time that Mr. Persico was going away to jail for a long

17 period of time, right?

18 A I believe at that time, I think he had that little

19 case, a gun charge case.

20 Q But there wasn't any idea in your mind he was going

21 away to jail for a long period of time?

22 A Right. I was hoping not.

23 Q Now, let's go back to this dispute in the early

24 1990s.

25 There were actually different sides, right?

DiLeonardo - Cross/Kedia**2030**

- 1 A Right.
- 2 Q The Orena side, the Orena faction and the Persico
3 faction?
- 4 A Right.
- 5 Q Benji Castellazzo, do you know who that is?
- 6 A No.
- 7 Q You never heard the name?
- 8 A Benji?
- 9 Q Yes.
- 10 A No.
- 11 Q To this day, you never heard the name?
- 12 A I don't think so.
- 13 Q Now, when you learned that there were these two
14 different sides, you eventually said that the Persico
15 faction prevailed because that's how the families decided
16 it would be, right?
- 17 A Yes.
- 18 Q And you are talking about a period in the mid 1990s
19 it was decided that the Persicos would continue to rule,
20 right?
- 21 A Right.
- 22 Q And this is the violence you testified ended in late
23 1993, right?
- 24 A That was the last killing for a while, yeah.
- 25 Q Joey Scopo?

DiLeonardo - Cross/Kedia**2031**

- 1 A Right.
- 2 Q Someone who was on the Orena side of the war?
- 3 A Right.
- 4 Q And this fight, this killing of someone who was on
5 the Orena side of the war, Billy Cutolo decided to join
6 the Persico side?
- 7 A Right.
- 8 Q And there were people who were angry about that,
9 right?
- 10 A I don't know about that. I'm not sure. I didn't
11 speak to anybody directly on the other side.
- 12 Q You didn't?
- 13 A I did not.
- 14 Q You certainly know of people who didn't come in,
15 right?
- 16 A Sure.
- 17 Q And people who were asked to come in and said no, we
18 are not doing it, right?
- 19 A Right.
- 20 Q You just don't know how they felt about Billy Cutolo
21 joining the Persico faction?
- 22 A I didn't hear firsthand, but I could imagine. I'm
23 sure they were angry to jump ship, one of the instrumental
24 figures in the car and now he is weakening their position
25 by coming back into the fold.

DiLeonardo - Cross/Kedia**2032**

- 1 Q Not only did he come back to the fold, later he rose
2 to the role of underboss in that faction?
- 3 A Right.
- 4 Q And there were also another group that was unhappy
5 about the Persico faction prevailing, that was the
6 Genovese family?
- 7 A That's correct.
- 8 Q And the Genovese family was against resolving the
9 situation?
- 10 A Right.
- 11 Q And the Genovese family is the same family who, along
12 with the Luccheses, took it upon themselves to kill Frank
13 DeCicco here, the boss of the family?
- 14 A Yes, and others.
- 15 Q They did that without consulting the boss of the
16 Gambino family, John Gotti, right?
- 17 A No, they were going to kill him, too.
- 18 Q Meaning they would certainly kill Frank DeCicco, the
19 Genovese family took it upon themselves?
- 20 A Yes, he was a target, too. They were not going to
21 him.
- 22 Q They would have gotten rid of them?
- 23 A They tried.
- 24 Q Now, we talked about your being the liaison between
25 the Gambino family and the Colombo family. And I asked

DiLeonardo - Cross/Kedia**2033**

- 1 you about Andrew Russo. Do you have a recollection of
2 that?
- 3 A I know the name. I met him in Otisville, when he was
4 in prison up there once or twice.
- 5 Q When was that, that you met him?
- 6 A Let's see. When Little Joey was in jail, maybe in
7 2000, and a little after that, maybe 2001 or 2, after my
8 case.
- 9 Q Did you know him to be the acting boss of the Colombo
10 family at any point?
- 11 A No. Not that I recall.
- 12 Q Sorry?
- 13 A Not that I recall.
- 14 Q When you became the liaison -- who was the liaison
15 prior to your becoming the liaison for the Colombo family?
- 16 A As far as I said, no, I don't know anybody who was.
17 There could have been, but as far as I know, negative.
- 18 Q Why was it decided there needed to be a liaison?
- 19 A Again, it goes back to this hard feelings between the
20 Gottis and the Persicos, and they knew I was from that
21 neighborhood and had expressed myself to John, I knew
22 Michael, Larry, I thought they were a nice family, and he
23 thought I would be a good buffer, being from the same
24 area.
- 25 Q Michael and Larry, meaning Allie's Persico's

DiLeonardo - Cross/Kedia**2034**

1 brothers?
 2 A Right.
 3 Q This position was something you created?
 4 A Well, sort of. Like I said, Junior had known I was
 5 from the neighborhood, it was Bensonhurst, and I was a
 6 strong figure there, and the Persicos had been there
 7 forever.
 8 Q Mr. DiLeonardo, in the history of organized crime, do
 9 you know other people who had the title of liaison?
 10 A There are people, contact people, absolutely, in our
 11 family before, Genovese families. We had guys.
 12 Q After you were the liaison with Mr. Persico -- Mr.
 13 Persico went to jail at some point in 1999?
 14 A I would say later, or early 2000.
 15 Q You testified you continued to be the liaison to the
 16 Colombo family, right?
 17 A After Allie went to jail?
 18 Q Yeah.
 19 A I spoke with Jack, that was about it, not too much.
 20 Q You spoke with whom?
 21 A Jackie DeRoss.
 22 Q Do you recall testifying on direct examination that
 23 you continued to be the liaison between May of 1999 and
 24 June of 2002 when you were arrested?
 25 A I really didn't meet with them, because once Jackie

DiLeonardo - Cross/Kedia**2036**

1 on occasion would have been Jackie DeRoss?
 2 A That's correct.
 3 Q And you don't have a specific recollection of that?
 4 A I know I met with Jack, but I'm not sure.
 5 Q What about, you testified about a person by the name
 6 of Tommy Gioeli running the family when you were arrested
 7 in June of 2002?
 8 A Right.
 9 Q How long had he been running the family at that time?
 10 A Maybe a couple of years.
 11 Q So maybe since 2000?
 12 A I'm not sure when he got appointed. Until June 2002,
 13 he was still running the family.
 14 Q What was he appointed to?
 15 A I believe he was on the committee or acting boss, I'm
 16 not sure. I met him, and I don't remember.
 17 Q When did you meet him?
 18 A I met him, I would say, sometime in the spring of
 19 '02, somewhere around there.
 20 Q Under what circumstances?
 21 A He had a kid around -- Nicky Rizzo, who was a
 22 soldier, had a kid around him who was thought to be
 23 robbing, doing some burglaries of houses in Florida and
 24 here, and Sal Romano had thought this kid Nicky with Nick
 25 Rizzo was doing these robberies.

DiLeonardo - Cross/Kedia**2035**

1 is in and Allie is in with the construction end of that,
 2 Huck was handling that, I would have Huck go see Chickie
 3 DeMartino.
 4 Q You weren't the liaison during that period of time?
 5 A It was created for me to meet Allie. Once Allie
 6 wasn't around, I didn't meet with those people on any
 7 issues really.
 8 Q What about the other families, the Bonanno family,
 9 the Genovese family, the Lucchese family, who was the
 10 liaison?
 11 A At one time, George DeCicco.
 12 Q When was that?
 13 A That was when he was, say, the mid '90s, I would say.
 14 Q For how long a period of time?
 15 A I'm not sure. A couple of years maybe, I'm not sure.
 16 Q Who else?
 17 A That's about it that I can remember. Pete used to
 18 meet with the Bonanno people himself. He was close with
 19 Joe Massino or Junior when Junior was out.
 20 Q So, Mr. DiLeonardo, after Mr. Persico was
 21 incarcerated, you believe it was in 2000, your testimony
 22 is that you really didn't have that position anymore,
 23 right?
 24 A Right.
 25 Q And in fact, the only person that you met with maybe

DiLeonardo - Cross/Kedia**2037**

1 So I talked to Nicky Rizzo about it, and then he
 2 had called Tommy Gioeli in and I met him in a restaurant
 3 in Staten Island and expressed my views maybe this kid was
 4 involved, and they said they would look into it.
 5 Q This is shortly before you were arrested?
 6 A I think so. Within six months. It was after my
 7 case, sure.
 8 Q When you say after your case, after your Atlanta
 9 case?
 10 A Yeah.
 11 Q Before you were arrested on the Fred Weiss murder?
 12 A Right, not too much of a window from August of '01 to
 13 June of '02.
 14 Q Is this the first time you ever met Tommy Gioeli?
 15 A I think so.
 16 Q Certainly, Mr. DiLeonardo, there was and
 17 introduction?
 18 A Yes. Like I said, I'm not sure if I was the acting
 19 boss or on the committee to run the family, I'm not sure
 20 exactly. I don't remember right now.
 21 Q What about Joe Waverly, did you ever meet him?
 22 A Never.
 23 Q Do you know who he is?
 24 A Yeah. He was originally, I believe he was originally
 25 from Bensonhurst.

1 Q Who is he?

2 A Excuse me?

3 Q Who is he?

4 A He held a position in administration at one time.

5 Q At what time, administration of what?

6 A The Persico family, Colombo family.

7 Q When you say the Persico family, you know that Joe Waverly was on the Orena side of the war, right?

8 A I think that was in the beginning and then I think he

9 switched.

10 Q You think he switched?

11 A Like Billy came into the other side. I think. I'm

12 pretty sure he started out on the Orena side. I don't

13 have too much of a clear memory now, but later on he came

14 in on the Persico side, like Bill.

15 Q During the time that you were the liaison to the

16 Colombo family, you weren't sure he was part of the

17 administration?

18 A Yes, I don't know which position he held. It was the

19 underboss or consigliere, I'm not sure. I know he held

20 and administration position.

21 Q During the time --

22 A I never met him. I only talked to Allie.

23 Q What about after Allie went to jail?

24 A Never, I told you, I never spoke to the man.

1 Q Do you know what position he held at that point in

2 time?

3 A Like I said, either underboss or consigliere.

4 Q Now, you testified about having gone to Billy

5 Cutolo's club, the Bocce Club, right?

6 A Right.

7 Q Did you play cards with Billy?

8 A No, I told you, I was there one time.

9 Q Well, do you recall, Mr. DiLeonardo --

10 MS. KEDIA: Referring to MDL 158, your Honor,

11 page 2306, part of 158B.

12 THE COURT: Sorry, the page number again?

13 MR. GOLDBERG: 2306.

14 Q Start at line 9. Do you recall at a prior

15 proceeding, Mr. DiLeonardo, last year being asked these

16 questions and giving these answers?

17 Question: Do you know whether Billy Cutolo had

18 a crew night?

19 Answer: It was either Tuesday or Wednesday.

20 Question: What does that term mean?

21 Answer: He would have everybody in his crew

22 once a week at least come to his club, his base, show up,

23 discuss business with him, play cards, things like that.

24 Question: Did you gain and understanding of

25 any of the rules associated with Bill Cutolo's card game?

1 Answer: Yeah, when Bill was playing, nobody

2 could leave unless he was winning or even.

3 Do you recall being asked those questions?

4 A Yeah, that's what I heard, sure.

5 Q Those are -- again, that's testimony you were giving

6 based on things you have heard?

7 A Yeah, I spoke to other people in his crew. That's

8 what they told me. Sure.

9 Q Who did you talk to in his crew that told you that?

10 A Campy, a kid named Ralphie would complain about it.

11 Matter of fact, Ralphie's wife was close with my first

12 wife.

13 Q Ralphie who?

14 A I don't know his last name. He wasn't a wiseguy, he

15 was and associate. He would tell his wife that he

16 couldn't leave until Bill was winning or was even, his

17 wife would tell my wife. Besides I heard that on the

18 street.

19 Q It was common knowledge?

20 A I would think so, yeah.

21 Q Now, you testified about a time when a person by the

22 name of Dom -- when you talk about a person named Dom, you

23 are referring to Dom Dionisio?

24 A I knew him as Black Dom.

25 Q Black Dom?

1 A Right.

2 Q A person by the name of Black Dom had a kid beaten

3 up, so you went to Billy's club, right?

4 A Right.

5 Q What was this incident?

6 A It was a claim over -- they are all around the same

7 age, the stockbrokers around me, Greg and Rich.

8 Q What age is that?

9 A I would say right now they are in their mid 30s.

10 Q Significantly younger than you?

11 A Yeah.

12 Q And Dom was as well?

13 A Absolutely.

14 Q He is not one of the people you grew up with and

15 known your whole life?

16 A No. And they were trying to claim them, meaning they

17 were doing good in the stock business, Greg and Rich, and

18 they knew each other from the neighborhood. They tried to

19 pull a claim on them and pulled them over to that side to

20 be with Bill and they wound up in and argument and gave a

21 beating.

22 Q This was a period of time when Bill Cutolo held what

23 position?

24 A I think he just became a captain again.

25 Q Just became a captain again?

<p style="text-align: center;">DiLeonardo - Cross/Kedia</p> <p style="text-align: right;">2042</p> <p>1 A I think so.</p> <p>2 Q Meaning there was a period of time he was a captain</p> <p>3 before the war and then he aligned himself with the</p> <p>4 Persico faction?</p> <p>5 A Came as a soldier.</p> <p>6 Q Then was promoted to captain?</p> <p>7 A Right.</p> <p>8 Q You believed this incident with Dom occurred during</p> <p>9 that period of time?</p> <p>10 A Yeah.</p> <p>11 Q What year approximately would you say it was?</p> <p>12 A I would say '97, '98 -- more like '97 maybe.</p> <p>13 Q At this point in time, you and Billy Cutolo were of</p> <p>14 the same rank?</p> <p>15 A Yeah.</p> <p>16 Q It was okay for you to go talk to Billy?</p> <p>17 A I would have talked to him, I wouldn't have stood on</p> <p>18 ceremony with Billy.</p> <p>19 Q You wouldn't have stood on ceremony, but Billy Cutolo</p> <p>20 was someone who would have stood on ceremony?</p> <p>21 A Most of the time, yes, I would say so.</p> <p>22 Q In fact, when you met him for the first time, he</p> <p>23 didn't want to talk to you because you were and associate</p> <p>24 and he was a soldier?</p> <p>25 A Right, it wouldn't have turned out good.</p>	<p style="text-align: center;">DiLeonardo - Cross/Ms. Kedia</p> <p style="text-align: right;">2044</p> <p>1 CROSS-EXAMINATION (Continued)</p> <p>2 BY MS. KEDIA:</p> <p>3 Q. I'm just trying to get straight which one was first?</p> <p>4 A. Sal Romano.</p> <p>5 Q. Sal Romano is first and then Dom threatened to beat</p> <p>6 him up?</p> <p>7 A. No. He did beat him up. The threat was first with</p> <p>8 Sal. The beating was second with Dom and Rico?</p> <p>9 Q. Now you also testified about the fact that and issue</p> <p>10 arose later in 1999 with respect to this same kid Sal</p> <p>11 domain know. Right?</p> <p>12 A. Yes.</p> <p>13 Q. And in fact you set up the meeting with Billy Cutolo.</p> <p>14 Right?</p> <p>15 A. I didn't set up the meeting, Eddie set up the</p> <p>16 meeting.</p> <p>17 Q. A meeting was arranged?</p> <p>18 A. Right.</p> <p>19 Q. And when you say Eddie set up the meeting, with whom</p> <p>20 did he set under the meeting?</p> <p>21 A. I believe it was through Jackie DeRoss.</p> <p>22 Q. Through Jackie DeRoss?</p> <p>23 A. Yes.</p> <p>24 Q. And what did you understand -- what was Eddie</p> <p>25 Garafola's rank at the time?</p>
<p style="text-align: center;">DiLeonardo - Cross/Kedia</p> <p style="text-align: right;">2043</p> <p>1 Q It wouldn't have turned out good?</p> <p>2 A I would have lost. He has the edge over me. He is a</p> <p>3 wiseguy. If I meet him alone, whatever I said is a lie</p> <p>4 and he is a wiseguy, so it's true. Besides, our</p> <p>5 personalities at the time, two strong figures. We would</p> <p>6 have had an argument.</p> <p>7 Q You testified that during this time period in '94,</p> <p>8 '95, that there was also an issue with a fellow by the</p> <p>9 name of Sal Romano?</p> <p>10 A Right.</p> <p>11 Q At that period of time, you said it was straightened</p> <p>12 out between Joe Campanella and who from the Gambino</p> <p>13 family?</p> <p>14 A I think it was more like '96.</p> <p>15 Q At the time, it was straightened out between Joe</p> <p>16 Campanella and who?</p> <p>17 A Joey D'Angelo and Louie Mariani went to see Campy,</p> <p>18 who spoke to Bill.</p> <p>19 Q And this was part of the same incident with Dom</p> <p>20 beating up this person that you --</p> <p>21 A No, totally separate. Years prior.</p> <p>22 Q Years prior to the incident?</p> <p>23 A At least a year prior, right.</p> <p>24 Q When Dom beat up somebody?</p> <p>25 A He didn't beat him up. He threatened the guy, Sal.</p>	<p style="text-align: center;">DiLeonardo - Cross/Ms. Kedia</p> <p style="text-align: right;">2045</p> <p>1 A. He was a soldier, always a soldier.</p> <p>2 Q. And what did you understand Mr. DeRoss's rank to be</p> <p>3 at the time?</p> <p>4 A. He was a captain.</p> <p>5 Q. And there was a meeting that you wanted to have with</p> <p>6 Billy Cutolo over the same kid?</p> <p>7 A. He had, Billy had the claim coming with the \$23,000.</p> <p>8 Q. Had the claim coming with the money?</p> <p>9 A. Yes, 23.</p> <p>10 Q. What does that mean?</p> <p>11 A. Was making a claim that Sal Romano owed them \$23,000.</p> <p>12 Q. Billy Cutolo was making a claim that Sal Romano owed</p> <p>13 somebody in the Colombo family \$23,000?</p> <p>14 A. Right.</p> <p>15 Q. And you arranged, Billy Cutolo arranged to meet with</p> <p>16 you, was your understanding?</p> <p>17 A. Yes. Like I said, he set up the appointment to get</p> <p>18 hooked up.</p> <p>19 Q. I'm sorry, Eddie was?</p> <p>20 A. Yeah.</p> <p>21 Q. And as far as you were concerned an appointment was</p> <p>22 set up. Right?</p> <p>23 A. Right.</p> <p>24 Q. Now I'm going to show you what is in evidence as</p> <p>25 Government Exhibit 133. If I may have it?</p>

1 And this is a meeting that you believe was
2 scheduled for sometime in May or June of 1999. Right?
3 A. Yeah.

4 Q. Now, if could you take a look at Government Exhibit
5 133.

6 You can certainly look at any page you like, but
7 I refer your attention to say May 21st, the early, to the
8 early part of June.

9 A. This right here?

10 Q. Look at anything that you like.

11 And can you tell us where in the diary if this
12 meeting is reflected?

13 A. I'm not clear about what you're showing me.

14 Q. If could you look at the dates around the time that
15 you scheduled this meeting with Billy Cutolo, and just
16 tell us what date this meeting was scheduled for?

17 A. I don't know the date. Like I said.

18 Q. And I'm asking to you look at this diary that is in
19 evidence, and see if it helps you remember what date this
20 meeting was?

21 A. I have never seen this diary. So this can't help me.
22 I see a page here with dates on it. With some small
23 writings on it. I don't know what you're showing me.

24 Q. Would you look at the 21st, the 22nd through the 31st
25 of May, and through the first couple of weeks in June.

1 Do you see anything in the diary that reflects
2 that Billy Cutolo and you were scheduled to have a
3 meeting?

4 A. First of all whose diary is this?

5 Q. It is in evidence as a diary belonging to Billy
6 Cutolo?

7 A. This, so this is Billy's diary that he wrote in.

8 What is the exact date when Billy was killed?

9 Q. Well, Mr. DiLeonardo, Billy Cutolo disappeared,
10 according to the government, on May 26, 1999?

11 MR. GOLDBERG: Your Honor, object to the
12 question.

13 THE COURT: Please approach on this.

14 (The following occurred at sidebar.)

15 THE COURT: Your objection?

16 MR. GOLDBERG: Yes, your Honor. It is pretty
17 clear this witness has made clear that he has never seen
18 this book before. It is not his book. It is sort of --
19 so to make him go through every page and show me where in
20 the book the appointment is. She can argue on summation.

21 THE COURT: It is not in there?

22 MS. KEDIA: Of course it is not.

23 THE COURT: So move on.

24 MS. KEDIA: Well we can agree and that will
25 solve the problem.

1 MR. GOLDBERG: It is not proper. She can argue
2 in summation. There is no entry there, but she is showing
3 the witness.

4 MS. KEDIA: I asked the witness to look at the
5 week before and the week after, and testify whether it is
6 in there. If there is any indication that Billy Cutolo
7 was meeting with a scheduled meeting, to meet with Michael
8 DiLeonardo.

9 MR. GOLDBERG: Your Honor, it is an
10 inappropriate question, because there is -- he doesn't
11 know what the notations are.

12 THE COURT: Let's move on.

13 MR. LaRUSSO: Your Honor, can we have a break
14 when we get a chance?

15 THE COURT: I really wanted to if all possible
16 keep going, because we got started late. Thank you.

17 MR. LaRUSSO: Sure.

18 (The following occurred in open court:)

19 THE COURT: Do you folks want to take a short
20 break? Don't be shy. I wanted to work until 12:30
21 because we got started late.

22 Okay.

23 BY MS. KEDIA:

24 Q. Now Mr. DiLeonardo, this meeting that was scheduled
25 with Billy Cutolo in mid-1999, was with, was with Sal

1 Romano. Right?

2 A. Right.

3 Q. Now do you recall telling the government that you
4 already had a meeting with Billy Cutolo in 1999 over this
5 Sal Romano issue?

6 A. I probably did, that is why we couldn't get it
7 settled.

8 Q. Meaning you weren't able to set up a meeting, or you
9 weren't able to settle the situation?

10 A. Yes, right.

11 Q. Well do you recall telling the government that in
12 fact the situation was resolved with Billy Cutolo and
13 \$23,000 was paid?

14 A. No.

15 Q. I want to show you what is marked as MDL-116.

16 Mr. DiLeonardo, read that to yourself and tell
17 me when you're ready.

18 A. This is exactly what I have been saying.

19 Q. Mr. DiLeonardo, do you recall having read that
20 section, that you told the government that the situation
21 was resolved by Sal Romano and the \$23,000 after a
22 sit-down with Billy Cutolo?

23 A. No. It doesn't say who the money was paid for him.
24 It says exactly what I just said. The dispute was
25 resolved with the Colombo family, by Sal Romano paying

1 \$23,000. Right.
 2 Q. After a sit-down, you had a sit-down with Billy
 3 Cutolo. Right?
 4 A. This is exactly what -- what I'm reading is exactly
 5 what I have been saying.
 6 Q. Mr. DiLeonardo, answer my question.
 7 This is after you had a sit-down with Billy
 8 Cutolo. Right?
 9 A. I had a few sit-downs with Billy. This is at least
 10 one that I remember. And like I said, this doesn't
 11 clarify when it was settled and who the money was given
 12 to, or anything like that.
 13 Q. Well Mr. DiLeonardo, do you recall last week on
 14 cross-examination, on page 1926?
 15 MS. KEDIA: On page 1926, your Honor.
 16 THE COURT: Okay.
 17 BY MS. KEDIA:
 18 Q. Being asked these questions and giving these answers.
 19 "Question: Well let's focus on this one meeting
 20 in mid-1999 first. All right? You say it was over a
 21 stock issue going on with a person by the name of Sal
 22 Romano. Is that right?
 23 "Answer: Yes.
 24 "Question: And is it a fact that you dealt with
 25 the person, that you dealt with Billy Cutolo about? Is

1 "Answer: No.
 2 "Question: There were instances that you met
 3 with Bill Cutolo regarding Sal Romano?
 4 "Answer: I don't believe I had a specific
 5 recollection of meeting him specifically about Sal. That
 6 was taken care of with Joe Campy and Joey DeAngelo.
 7 "Question: On that one occasion?
 8 "Answer: Yes.
 9 "Question: And what happened with this next
 10 situation that arose with Sal Romano? How is it that that
 11 arose?
 12 "Answer: Sal had a guy around in Florida. I
 13 believe that they did something with phones, and they were
 14 partners in an office, and broke up. And eventually I
 15 learned that Sal did owe him \$23,000. And that's the
 16 money Dom and Rico chased Sal to recoup the \$20,000. And
 17 Sal DeAngelo told me they were right about that.
 18 "Question: And this was a meeting that you were
 19 setting up with Mr. Cutolo?
 20 "Answer: Yes.
 21 "Question: And at a time you were setting up
 22 this meeting with Mr. Cutolo, what was his position?
 23 "Answer: He was a captain?
 24 "Question: He was? Yes."
 25 "This latest meeting he was the underboss."

1 that right.
 2 "Answer: I dealt with him about Sal before,
 3 about Sal, yes.
 4 "Question: And why did you deal with Billy
 5 Cutolo about Sal? What was the situation?
 6 "Answer: There was an incident where Sal had an
 7 office in lower Manhattan, and Dom and Rico went up there
 8 and had a difference about all these cold callers, these
 9 brokers. They rob each other, cold callers, and steal
 10 each other's work. And Dom and Rico threatened to hurt
 11 Sal Romano. And then they straightened it out.
 12 "Question: When was that in relation to this
 13 meeting and at Angelo Spata's house?
 14 "Answer: That meeting, that beef happened right
 15 after Dan goes to jail. So it has to be '94, early '95.
 16 "Question: So this is a totally separate
 17 incident over Sal Romano?
 18 "Answer: Yes.
 19 "Question: And at that point in time you met
 20 with Bill Cutolo alone?
 21 "Answer: No. I had sent Joey to talk to Joe
 22 Campy, to straighten it out. That is how it got
 23 straightened out.
 24 "Question: Meaning you did meeting with Billy
 25 Cutolo at that time?

1 Do you remember being asked these questions and
 2 giving those answers?
 3 A. Sure.
 4 Q. You testified about a meeting that you had, you were
 5 trying to have with Billy Cutolo in 1994, 1995. Right?
 6 A. '96. I cleared it up, it was '96.
 7 Q. Now your memory is that it is '96?
 8 MR. GOLDBERG: Objection.
 9 THE COURT: Sustained.
 10 BY MS. KEDIA:
 11 Q. And the meeting that you had in, that you were going
 12 to set up with Billy Cutolo in 1999. Is that right?
 13 A. Yeah, an additional meeting. Yeah.
 14 Q. You know it is an additional meeting?
 15 MR. GOLDBERG: Your Honor, objection.
 16 THE COURT: Sustained.
 17 BY MS. KEDIA:
 18 Q. Well Mr. DiLeonardo, you specifically said that you
 19 never met with Billy Cutolo over Sal Romano. Right?
 20 A. I must have got confused over there. But I did meet
 21 with him on this issue once, I believe.
 22 Q. And when was that?
 23 A. Sometime, leading up to that, maybe about a month
 24 before. I'm not sure. I don't have too clear a
 25 recollection, but I know I met with him.

DiLeonardo - Cross/Ms. Kedia

2054

- 1 Q. Where?
- 2 A. I don't remember.
- 3 Q. Who was there?
- 4 A. I think just me.
- 5 Q. Just you and Mr. Cutolo?
- 6 A. Yeah.
- 7 Q. Mr. Cutolo was the underboss at the time. Right?
- 8 A. Right.
- 9 Q. And you were a captain?
- 10 A. Right.
- 11 Q. Mr. Cutolo is someone you testified would sit on
- 12 ceremony, and wouldn't, you know, meet with someone on a
- 13 different rank?
- 14 A. No, Billy would have done anything, with just about
- 15 with me. We had a respect for each other that way.
- 16 Q. Meaning if you asked him to come to a meeting he
- 17 would come?
- 18 A. Unless for our purposes, you want the meeting, I'll
- 19 pick the spot.
- 20 Q. But you're saying at that time, point in time he was
- 21 the underboss, you were a captain, and he didn't stand on
- 22 protocol, and he had a meeting with you?
- 23 A. Yeah, sure.
- 24 Q. Now you testified that you met Billy, Jr a couple of
- 25 times. Right?

DiLeonardo - Cross/Ms. Kedia

2055

- 1 A. Yes.
- 2 Q. When was that?
- 3 A. That could be in the eighties, until the nineties.
- 4 Probably more like in the eighties. Early.
- 5 Q. Do you know where?
- 6 A. In a lawyer's office, like I said. His girlfriend,
- 7 future wife worked in a lawyer's office where I used to go
- 8 all the time.
- 9 Q. So it was just by happenstance that you bumped into
- 10 him?
- 11 A. Yes.
- 12 Q. You weren't introduced to him by his father?
- 13 A. No.
- 14 Q. Now Billy Cutolo, when you had these, what was this a
- 15 sit-down over Sal Romano?
- 16 A. In 1999. Yeah.
- 17 Q. And when you had these types of sit-downs, you
- 18 testified that sometimes he was someone who was very
- 19 difficult to resolve things with. Right?
- 20 A. Yeah.
- 21 Q. And I believe you testified about having known a lot
- 22 of members of his crew. Right?
- 23 A. Yes.
- 24 Q. I think you called it kind of an intimidating crew.
- 25 A. Yeah, sure, respect them. Sure.

DiLeonardo - Cross/Ms. Kedia

2056

- 1 Q. And you said that a person by the name of Dom
- 2 Dionisio is someone who was around Billy Cutolo. Right?
- 3 A. Right.
- 4 Q. And Dom is not someone you knew growing up. It was
- 5 someone you met through Billy Cutolo. Right?
- 6 A. No, I knew him from the street also.
- 7 Q. How did you meet Dom Dionisio?
- 8 A. Probably in a club, maybe a discotheque or something
- 9 like that. I'm not sure when I first met the kid.
- 10 Q. And he is someone who, I believe you said when he was
- 11 around Billy, he would walk around like King Kong. Right?
- 12 A. Yeah. He was very assertive, the kid, yeah.
- 13 Q. Meaning that he, Billy, he felt empowered by Billy.
- 14 Is that right?
- 15 A. Good choice of words. Yes.
- 16 Q. And in a way he rode around on Billy's coattails.
- 17 Right?
- 18 A. Right.
- 19 Q. And this was true with several of the guys in the
- 20 crew. Right?
- 21 A. That is true with people in every family.
- 22 Q. It is true with people outside organized crime as
- 23 well. Right?
- 24 A. Sure.
- 25 Q. And I mean certainly guys with Sammy Gravano acted

DiLeonardo - Cross/Ms. Kedia

2057

- 1 differently when Sammy Gravano started cooperating.
- 2 Right?
- 3 A. Before and after. Yes.
- 4 Q. Before and after. Right?
- 5 A. Yeah.
- 6 Q. Probably with you too right?
- 7 A. Sure.
- 8 Q. Now you spoke about a dispute over a person by the
- 9 name of Chris Paciello. Right?
- 10 A. Right.
- 11 Q. And this is a kid, I believe you testified that owns
- 12 clubs in Florida?
- 13 A. Yeah.
- 14 Q. And there was a situation that occurred, or there was
- 15 some dispute amongst family as to who Chris was going to
- 16 go with. Right?
- 17 A. That's right.
- 18 Q. And he wasn't a made member of any family. Right?
- 19 A. No.
- 20 Q. He was simply around a few different people?
- 21 A. Right.
- 22 Q. And different people were laying claims to him.
- 23 Right?
- 24 A. Now that he had money. Yes.
- 25 Q. Now that he had money, I mean he was successful, so

DiLeonardo - Cross/Ms. Kedia

2058

- 1 people wanted a part of it?
 2 A. Right.
 3 Q. And there was a meeting that you had over Chris
 4 Paciello. Right?
 5 A. Yes.
 6 Q. How do you say his name?
 7 A. Paciello.
 8 Q. Paciello.
 9 And you had a meeting at a place called the --
 10 Manor?
 11 A. I believe that was just to set up the final
 12 appointment.
 13 Q. When you say to set up the appointment; who was did
 14 you meet at the -- Manor to set up the appointment?
 15 A. Jack, Jackie DeRoss, Allie, Campy. And there was a
 16 couple of other people around.
 17 Q. Allie Persico?
 18 A. Right.
 19 Q. Campy, meaning Joseph Campanella? Was that the --
 20 Manor?
 21 A. Right.
 22 Q. And this was a meeting --
 23 A. Right.
 24 Q. And Jackie DeRoss?
 25 A. Right.

DiLeonardo - Cross/Ms. Kedia

2059

- 1 Q. Why not Billy Cutolo?
 2 A. Yeah. I think Billy was there.
 3 Q. And what is the -- Manor, Mr. DiLeonardo?
 4 A. It is a catering hall.
 5 Q. And this is that a place that you had been to before
 6 for a meeting?
 7 A. No.
 8 Q. Had you been there after for a meeting?
 9 A. No.
 10 Q. Who chose the location?
 11 A. The Persico side. Yeah.
 12 Q. So meaning Mr. Persico, as far as you knew?
 13 A. Right, yeah. It was their place. The place was with
 14 them.
 15 Q. Meaning it is a place that you understood that they
 16 had meetings?
 17 A. Well, I don't know if he had meetings there all the
 18 time. It was a place they used to go eat and hang out.
 19 Q. Did you know that he met with Billy Cutolo at the --
 20 Manor?
 21 A. No. That was my first -- I didn't have firsthand
 22 knowledge of that.
 23 Q. And eventually a meeting was set up, and it was
 24 decided that Chris Paciello would go with the Bonanno
 25 family, right?

DiLeonardo - Cross/Ms. Kedia

2060

- 1 A. Yes. They decided to let the kid make the final
 2 decision where he wanted to be. And that is what was
 3 done.
 4 Q. And you would leave it up to him?
 5 A. Right.
 6 Q. And that certainly kind of broke protocol, so to
 7 speak right?
 8 A. Yes.
 9 Q. But that is what you agreed to do?
 10 A. Sure.
 11 Q. Both you and Mr. Persico?
 12 A. That's right.
 13 Q. Now Mr. Persico is someone who you have testified you
 14 got to know over those few years right.
 15 A. Right.
 16 Q. Between the mid-1990's and 2000. Right?
 17 A. Yes, uh-huh.
 18 Q. And he is someone who maybe you would say was
 19 associated through his whole life with organized crime
 20 because of his father. Right?
 21 A. Right.
 22 Q. That is what -- that is your view of being
 23 associated. Right?
 24 A. Right.
 25 Q. When you know someone who is involved. Right?

DiLeonardo - Cross/Ms. Kedia

2061

- 1 A. Right.
 2 Q. And certainly he didn't fit the mobster stereotype.
 3 Right?
 4 A. Not dress-wise.
 5 Q. He didn't walk around, you said with like, I believe
 6 you said a coat and top hat, like Billy and him dressed
 7 totally different? Meaning Billy did fit that stereotype?
 8 A. Yeah. Allie would travel alone, Billy would travel
 9 with several people.
 10 Q. In pacts?
 11 A. Several people.
 12 Q. Except for occasions when he agreed to meet with you?
 13 A. Who is that?
 14 Q. Billy.
 15 A. Ninety-nine percent of the time, whenever I seen
 16 Billy he was with a few people.
 17 Q. Not the situation with Sal Romano. Right?
 18 A. I believe that was alone.
 19 Q. And like you, Mr. Persico was educated. Right?
 20 A. Oh, yes. Very smart individual.
 21 Q. And he would actually be sitting on the street all
 22 the time. You knew him to be someone instead of being on
 23 the streets of Brooklyn all the time, you knew him to be
 24 often in Florida?
 25 A. Loved the outdoors.

1 Q. Now you testified about certain meetings that you had
 2 with Mr. Persico over the years, about meeting with, over
 3 a place called Aquilia (ph)? Right?
 4 A. Right.
 5 Q. And primarily that is the issue about what you dealt
 6 with Mr. Persico. Right?
 7 A. There were several, but that was the introductory, I
 8 guess complaint or beef. Yeah.
 9 Q. And there were other meetings, or you discussed, he
 10 started discussing things like politics and protocol.
 11 Right?
 12 A. Yeah.
 13 Q. And this was an occasion where you suggested to
 14 Mr. Persico to get rid of this blood oath at the induction
 15 ceremony. Right?
 16 A. Yeah. I thought it would be a good idea to leave
 17 that out.
 18 Q. To leave it out of the induction ceremony. Right?
 19 A. Yeah, you know, swear to kill.
 20 Q. And when you told Mr. Persico that you thought it was
 21 a good idea, Mr. Persico simply listened to what you had
 22 to say. Right?
 23 A. A great listen near.
 24 Q. And he didn't respond. He didn't have a reaction,
 25 and certainly took no action. Right?

1 A. Not that I remember.
 2 Q. Now you testified about other times that you met with
 3 Mr. Persico, that you had two meetings at Angelo Spata's
 4 house. Right?
 5 A. Yeah. I think it was two.
 6 Q. And the first meeting, was this a meeting that you
 7 were supposed to have with Billy Cutolo. Is that right?
 8 A. I'm not sure. I don't know which one was first.
 9 Q. You're not sure.
 10 Had you been to Angelo Spata's house before?
 11 A. I may have. Yes. This probably was the second. I'm
 12 not sure. But I know where Angelo lived.
 13 Q. You knew already where Angelo lived?
 14 A. Yeah, just about, yeah.
 15 Q. Well, when you say you knew; how do you know?
 16 A. I knew the kid very well. I knew him since a little
 17 boy. I know his family.
 18 Q. You knew the brother-in-law, you knew Allie's
 19 brother-in-law?
 20 A. Sure. The father-in-law, the kids, father, mother,
 21 brothers.
 22 Q. Your whole life?
 23 A. Well, a long time. Yeah.
 24 Q. And there are other occasions where you met at a
 25 place, a park called Dyker Heights. Right?

1 A. Right.
 2 Q. And it was a school yard. Right?
 3 A. Yes.
 4 Q. Let me show you what I am marking as Defendant's
 5 Persico AD, AE, and AF.
 6 Do you recognize what is depicted in that
 7 photograph, Mr. DiLeonardo?
 8 A. Sure.
 9 Q. What is that?
 10 A. That is PS 201, junior high school.
 11 Q. That is the school yard where you met Mr. Persico?
 12 A. Right.
 13 MS. KEDIA: And I offer Defendant's Persico AD,
 14 AE and AF?
 15 MR. GOLDBERG: No objection.
 16 THE COURT: Received in evidence.
 17 (Defense Persico Exhibits AD, AE and AF in
 18 evidence.)
 19 BY MS. KEDIA:
 20 Q. Mr. DiLeonardo, this school yard, it is no bigger
 21 than this courtroom. Right?
 22 A. That end of it -- it is not a school yard. It is,
 23 like I said, there is a school yard and handball courts.
 24 And then this, it is probably about this size.
 25 Q. And then you testified there were actually some

1 swings. Right?
 2 A. Right.
 3 Q. There was equipment, like little kids' gym equipment.
 4 Right?
 5 If you can look at the TV screen in front of
 6 you. Right?
 7 A. Yeah. I don't remember it being that new, though.
 8 Q. I'm sorry?
 9 A. I don't remember it being that new looking.
 10 Q. Meaning the equipment might have been painted or
 11 replaced since you remember it?
 12 A. Yeah.
 13 Q. And you testified about swings. Right?
 14 Do you see the swings in the photo?
 15 A. Right.
 16 Q. And you testified about sitting on some benches by
 17 the swings. Right?
 18 A. Yeah.
 19 Q. And certainly this is the school yard where you could
 20 just -- it was open to the public. Right?
 21 A. Sure.
 22 Q. And it is a school yard that was visible to anyone
 23 and everyone. Right?
 24 A. Right.
 25 MS. KEDIA: If I may publish the photographs to

DiLeonardo - Cross/Ms. Kedia

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1 the jury, your Honor?
 2 THE COURT: Sure. Just pass them along. Don't
 3 comment. Okay? Thank you.
 4 (The exhibits referred to were handed to the
 5 jury.)
 6 BY MS. KEDIA:
 7 Q. And when you met with Mr. Persico at the school yard,
 8 were there sometimes children playing in the yard?
 9 A. Sure.
 10 Q. And you simply would sit and talk for a few minutes
 11 or however long. Right?
 12 A. Right.
 13 Q. Why is it that you met in the school yard?
 14 A. We felt comfortable there.
 15 Q. Well, who chose the school yard?
 16 A. I may have.
 17 Q. This is an area where you lived?
 18 A. No. I lived in Staten Island.
 19 Q. You lived in Staten Island?
 20 A. And I went to school there from the 7th grade to the
 21 9th grade.
 22 Q. To that specific school?
 23 A. Sure.
 24 Q. And you lived in that neighborhood?
 25 A. I lived in, yeah, well like a different neighborhood,

DiLeonardo - Cross/Ms. Kedia

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1 but I went to school there.
 2 Q. And certainly that school yard is visible from the
 3 street, that you walk on?
 4 A. Yeah. It is a long street going down.
 5 Q. Meaning you can drive down or walk down there?
 6 A. Correct.
 7 Q. Now you testified about a bagel shop that Mr. Persico
 8 had an interest in as well. Right?
 9 A. Right.
 10 Q. On 86th Street in Brooklyn?
 11 A. Correct.
 12 Q. And this bagel shop is several blocks away from this
 13 park. Right?
 14 A. Correct.
 15 Q. I'm going to show you what I'm marking as Defendant's
 16 Persico AG, AH and AI.
 17 A. That looks like it.
 18 Q. Do you recognize what is depicted in those
 19 photographs, Mr. DiLeonardo?
 20 A. Yeah.
 21 Q. And that looks like the bagel shop?
 22 A. That looks like Seventh Avenue. Yes.
 23 MS. KEDIA: I offer Defendant's AG, H and I?
 24 MR. GOLDBERG: No objection.
 25 THE COURT: Received in evidence.

DiLeonardo - Cross/Ms. Kedia

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1 (Defense Persico Exhibits AG, AG and AI in
 2 evidence.)
 3 BY MS. KEDIA:
 4 Q. Now Mr. DiLeonardo, if you would look, take a look at
 5 what has been marked as AH. Actually, maybe I'll put it
 6 up on the screen.
 7 Do you see that?
 8 A. Yes.
 9 Q. Is this the bagel shop that you are referring to?
 10 A. Yes. I don't remember that awning, but I believe
 11 that's the phone booths.
 12 Q. It looks different. It is a new awning?
 13 A. Right.
 14 Q. And you're talking about a time period some seven
 15 years, or eight years ago when you knew Mr. Persico.
 16 Right?
 17 A. Yes.
 18 Q. And you, other than in the courtroom, you haven't
 19 seen him since then. Right?
 20 A. Right.
 21 Q. And right across the street from this bagel shop
 22 there are pay phones. Right?
 23 A. Right.
 24 Q. And this is 7th Avenue and 86th Street?
 25 A. Right.

DiLeonardo - Voir Dire/Mr. Goldberg

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1 Q. Now Mr. DiLeonardo, you're certainly very familiar
 2 with the streets of Brooklyn. Right?
 3 A. Yes.
 4 Q. I'm going to show you what has previously been marked
 5 as AB.
 6 If you could take a look at it.
 7 Do you recognize AB?
 8 A. Yeah.
 9 Q. Does it accurately reflect the streets of Brooklyn as
 10 you know them to be?
 11 A. Yeah, sure.
 12 Q. And the specific markings on AB, do you recognize
 13 those streets?
 14 A. Yeah.
 15 MS. KEDIA: I offer Defendant's AB.
 16 MR. GOLDBERG: Voir dire, your Honor?
 17 THE COURT: Sure.
 18
 19 VOIR DIRE EXAMINATION
 20 BY MR. GOLDBERG:
 21 Q. Mr. DiLeonardo, have you ever seen that before?
 22 A. No.
 23 Q. And the specific markings that Ms. Kedia is referring
 24 to, have you had a chance confirm those markings?
 25 A. No. I know the shower line of Coney Island looks

DiLeonardo - Voir Dire/Mr. Goldberg

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1 like.

2 Q. Aside from the major streets, do you see there are

3 some markings some yellow markings that I'm pointing to?

4 A. Yes.

5 Q. Have you had a chance to confirm those specific

6 lotions?

7 A. No. This is the first time.

8 Q. Can you say whether or not those are accurate?

9 A. No.

10 MR. GOLDBERG: Same objection as before, your

11 Honor.

12 THE COURT: Please approach a moment.

13 (The following occurred at sidebar.)

14 THE COURT: Ms. Kedia you were supposed to

15 redact the locations you highlighted.

16 MS. KEDIA: The reason I left the locations is,

17 I believe the witness can testify obviously to the

18 locations. And I specifically asked him that question and

19 he said, yes, and accurate.

20 MR. GOLDBERG: My objection is, we don't know if

21 these are accurate. When she asked him about specific

22 markings, it became clear on the voir dire that he was

23 referring to parkways and streets. He knew the streets.

24 He doesn't know if these addresses are accurate. And I'm

25 surprised to see that Ms. Kedia placed it in front of the

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1 MS. KEDIA: Yes, your Honor.

2 THE COURT: Is there any indication that this

3 map is accurate, inaccurate in any way?

4 MR. GOLDBERG: I'll be honest with you, Judge.

5 I generally don't think the general streets are

6 inaccurate. But I don't know what those addresses are.

7 MS. KEDIA: They certainly had the opportunity

8 to see it. It has been in this courtroom since then. And

9 I don't have any problem with them examining each of the

10 locations after lunch. And I'll offer it after lunch.

11 THE COURT: Let's move along.

12 (The following occurred in open court:)

13 THE COURT: The objection is sustained.

14 CROSS-EXAMINATION (Continued)

15 BY MS. KEDIA:

16 Q. Mr. DiLeonardo, I'm going to show you what I have

17 marked as defend's Persico AJ.

18 Mr. DiLeonardo, do you recognize the person

19 depicted in that photograph?

20 A. It's a handsome guy. It's Allie.

21 Q. And you're certain this is Mr. Persico?

22 A. Yes.

23 Q. I offer Defendant's AJ?

24 MR. GOLDBERG: No objection your Honor.

25 THE COURT: Received in evidence.

DiLeonardo - Voir Dire/Mr. Goldberg

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1 witness again. Because when we were before you once

2 before she said she would cover it.

3 THE COURT: I'm not horrified that she has them

4 there. But do you want cover them up?

5 MS. KEDIA: If you want them covered up, we'll

6 cover them up at lunch. And then I'll put them in. But

7 these locations are going to become very relevant. And

8 that is the reason instead of uncovering them one at a

9 time as each witness testifies to it, which is what we're

10 going to need to do.

11 THE COURT: Okay.

12 MR. GOLDBERG: I thought she was going to cover

13 them.

14 THE COURT: Did this witness previously testify

15 that these were the locations?

16 MS. KEDIA: Yes. I have the locations

17 specifically marked.

18 THE COURT: No. On the last trial did you use

19 them?

20 MS. KEDIA: I didn't ask him about this

21 specific --

22 MR. GOLDBERG: So the answer is, no.

23 THE COURT: I can understand it. Thank you.

24 Thank you. You don't have to follow up with

25 another comment.

DiLeonardo - Cross/Ms. Kedia

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1 (Defense Persico Exhibit AJ in evidence.)

2 BY MS. KEDIA:

3 Q. If I may publish that to the jury as well, your

4 Honor?

5 THE COURT: Yes.

6 (The exhibit referred to was handed to the

7 jury.)

8 BY MS. KEDIA:

9 Q. And during the time that you knew Mr. Persico that is

10 how he looked?

11 A. Sure. Yes.

12 Q. Now Mr. DiLeonardo, this, we were talking about

13 discussions that you had with Mr. Persico. And one of the

14 discussions was about your wanting to get rid, or your

15 thinking it would be a good idea to get rid of this blood

16 oath. And his reaction was simply that he listened. Is

17 that right?

18 A. I think so. Yes.

19 Q. And you testified similarly that on another occasion

20 you had a conversation with Mr. Persico about Billy Cutolo

21 having what you call a -- holiday. Right?

22 A. Yes.

23 Q. And Mr. Persico, you testified also listened. Right?

24 A. Right.

25 Q. Again, no reaction, no response. Right?

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- 1 A. Right.
- 2 Q. He had the same reaction as he did when you told him
- 3 that maybe you thought you should get rid of the blood
- 4 oath. Right?
- 5 A. That's correct.
- 6 Q. Now you testified when you told him that you thought
- 7 Billy Cutolo had taken a holiday. You used the word, I
- 8 took a shot, telling him that.
- 9 A. Right.
- 10 Q. What does that mean?
- 11 A. All that his family has gone through with us
- 12 instigating that war with John, Sr. I didn't want him to
- 13 think that I was trying to undermine or reignite the
- 14 situation, or start trouble in his family again. I'm
- 15 putting my trust, I think we both, in a short amount of
- 16 time, to tell him I was concerned for his welfare, his
- 17 well-being. Like I said, it could be interpreted by him
- 18 if he chose to do so, is that I was looking to start
- 19 trouble again in the family by saying this.
- 20 Q. You were concerned that he would take that comment
- 21 that you were trying create friction. Right?
- 22 A. Right, exactly.
- 23 Q. And you certainly had no intention of creating any
- 24 friction between the two of them. That wasn't your point?
- 25 A. No. It was just like I said, my affection for the

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- 1 man, and my concern for him.
- 2 Q. Your affection for this man, Allie Persico?
- 3 A. That's correct.
- 4 Q. Certainly not your affection for Billy Cutolo.
- 5 Right?
- 6 A. Right.
- 7 Q. And you in fact viewed Billy Cutolo, who in fact was
- 8 very difficult and unreasonable. Right?
- 9 A. Right. And a threat to Allie.
- 10 Q. You viewed Mr. Persico or Mr. Cutolo as someone who,
- 11 if he weren't around things could be resolved easier.
- 12 Right?
- 13 A. Well, no. It wasn't a matter of my issues of being
- 14 easier. It was that Allie was running the family. It
- 15 stops there. He doesn't have to check with Billy. He
- 16 don't got to overrule Billy, like he had in the past when
- 17 we had difficulties. So I wasn't worrying about that. I
- 18 was worried about this man's safety.
- 19 Q. Mr. DiLeonardo, you just said Mr. Persico certainly
- 20 had the authority to overrule Billy Cutolo. Right?
- 21 A. Yeah.
- 22 Q. And in fact you're saying like he had in the past,
- 23 meaning there were occasions where he did do that?
- 24 A. Yeah.
- 25 Q. And what were those occasions?

DiLeonardo - Cross/Ms. Kedia

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- 1 A. Well the Ludwigsen - Paciello, that beef.
- 2 Q. And this is the kid with the clubs in Miami?
- 3 A. Right.
- 4 Q. Billy was saying one thing?
- 5 A. Like.
- 6 Q. He was lying?
- 7 A. And our guy was lying. Correct.
- 8 Q. And what does that mean, Billy was lying? What was
- 9 he lying about?
- 10 A. He was making a false claim for Chris.
- 11 Q. A claim, tell us what with a false claim means?
- 12 A. In other words, he said Chris belonged to the Colombo
- 13 family going way back. So it was John Rizzo saying the
- 14 same thing, going way back. And so was the Bonanno
- 15 family, was saying the same thing. So it was three
- 16 factions saying this kid belonged with them.
- 17 Q. So Billy Cutolo was not listening to anyone else's
- 18 point of view. Right?
- 19 A. No, no, no.
- 20 Q. And he was acting like he was going to have it --
- 21 A. Yes.
- 22 Q. And Mr. Persico was, said something?
- 23 A. Yes. Like I just said, I delineated that meeting
- 24 where Chris decided.
- 25 Q. But my question to you is, because Billy Cutolo

DiLeonardo - Cross/Ms. Kedia

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- 1 wouldn't resolved it, Mr. Persico stepped in?
- 2 A. Exactly, that is what I have been saying.
- 3 Q. Now what other occasion did Mr. Persico have to step
- 4 in when they couldn't resolve?
- 5 A. Dom Gottafrio (ph).
- 6 Q. And similarly Billy Cutolo was making a claim?
- 7 A. Yeah.
- 8 Q. A claim that you didn't think was rightful?
- 9 A. Yes.
- 10 Q. And you went to Mr. Persico?
- 11 A. Yes, went through The Kid. Right.
- 12 Q. And Billy Cutolo, you didn't think this resolved it
- 13 with Billy Cutolo. That was the point of you talking to
- 14 Mr. Persico?
- 15 A. After it goes to the point where you can't talk to
- 16 the guy, you go the next step.
- 17 Q. Now why is it that you didn't just deal with
- 18 Mr. Persico directly in the first place on these
- 19 occasions?
- 20 A. Because it wasn't Allie's beef. It was Billy's beef.
- 21 You understand?
- 22 Billy was making the claims or claim or claims.
- 23 It didn't start with Allie. It ended with Allie.
- 24 Q. So when you had and occasion, when you met with Billy
- 25 Cutolo, it was always because Billy Cutolo had a dispute

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1 or a claim over somebody that he shouldn't have had?
 2 A. Well, this is the way it works, not only this case.
 3 But it is supposed to work that way with everybody. It
 4 starts out small and works up big, when you can't get it
 5 resolved on different levels.
 6 Q. Now this situation with Sal Romano, you testified now
 7 that you had a meeting with Billy Cutolo over it. Right?
 8 MR. GOLDBERG: Objection to the comment, your
 9 Honor.
 10 THE COURT: Overruled.
 11 A. Yes.
 12 BY MS. KEDIA:
 13 Q. And then you had another meeting later set up with
 14 Billy Cutolo. Right?
 15 A. Right.
 16 Q. Mr. Persico's brother-in-law. Right?
 17 A. Right.
 18 Q. A place where you certainly never met Billy Cutolo
 19 before?
 20 A. That's correct.
 21 Q. Now when you arrived at this meeting, Mr. DiLeonardo,
 22 your testimony is that you said, *Where is he*. Right?
 23 A. Yeah.
 24 Q. Meaning Billy Cutolo?
 25 A. Right. I was kibitzing.

DiLeonardo - Cross/Ms. Kedia

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1 was this specific dispute that he was creating. Right?
 2 A. The only time I dealt with Billy --
 3 Q. Billy Cutolo. Yes?
 4 A. No. I talked to him about Dom Gottfriedo (ph), with
 5 Dom. And it started with, just about everything started
 6 with Billy.
 7 Q. Dom Gottfriedo was a dispute that Billy Cutolo
 8 created by laying claim to --
 9 A. Yeah, unless I got it wrong. There were others.
 10 Q. Well, let me rephrase the question.
 11 The only times that you had met with Billy
 12 Cutolo were over various disputes that Billy Cutolo was
 13 creating by laying claims to various people. Correct?
 14 A. That's right.
 15 Q. Now, on the construction issues, you primarily dealt
 16 with Mr. Persico. Right?
 17 A. Right.
 18 Q. And you dealt with other construction issues with
 19 Mr. DeRoss. Right?
 20 A. Right.
 21 Q. So Mr. DeRoss, according to you, said to you, *Haven't*
 22 *you heard about Billy? He has been missing about a week.*
 23 *You will be dealing with us now. Everything will be a*
 24 *little easier.* Right?
 25 A. Right.

DiLeonardo - Cross/Ms. Kedia

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1 Q. You were kibitzing?
 2 A. Yes.
 3 Q. Meaning you were joking around?
 4 A. I said, *Where is the guy?* I didn't see him there.
 5 Q. Well, at that point in time, during this meeting, you
 6 hadn't read any newspapers that said Billy Cutolo was
 7 missing?
 8 A. No. Like I stated, I had no clue. That was the
 9 first I learned of it.
 10 Q. There was no talk in the streets about Billy Cutolo
 11 missing?
 12 A. No. I didn't know myself. I hadn't heard anything
 13 about it.
 14 Q. Now, at this point in time, Mr. DiLeonardo, that you
 15 had this meeting, you're saying that Mr. Persico and
 16 Mr. DeRoss were there. Right?
 17 A. Right.
 18 Q. And at this point in time, you certainly on many
 19 occasions dealt with Mr. Persico. Right?
 20 A. Right.
 21 Q. And similarly, on many occasions you dealt with
 22 Mr. DeRoss. Right?
 23 A. Right.
 24 Q. And, in fact, the only statement when you were
 25 dealing with Billy Cutolo was what you stated when there

DiLeonardo - Cross/Ms. Kedia

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1 Q. And according to you, you had already been dealing
 2 with both of them. Right?
 3 A. Yes. But like I said, things started with Billy and
 4 they ended there.
 5 Q. But you had been dealing with them on many things
 6 that you had never been dealing with Billy about. Right?
 7 A. Right.
 8 Q. For years on end?
 9 A. Yes, it cut both ways. I dealt with Billy on things,
 10 and things did get there at times.
 11 Q. Now, when you were advised at this meeting, the first
 12 thing that happened is that you say, *Where is he?*
 13 A. No, we exchanged hellos.
 14 Q. You said, Hi, *hi, hi*.
 15 A. Right.
 16 Q. You had already been introduced to these men in the
 17 past. There was no need for introductions. Just
 18 salutations, hello?
 19 A. Yes.
 20 Q. So you had it easier if the two of them showed up.
 21 A. Right.
 22 Q. And you had these hellos. And then the next thing
 23 that happens after hello is, *Where is he?*
 24 A. Right.
 25 Q. And this is Mr. DeRoss's response to you. Right?

1 A. Right.
 2 Q. Now, anything else in between said?
 3 A. I don't remember, unless you can remind me.
 4 Q. That is all you can recall at this moment?
 5 A. Right.
 6 Q. Well, when Mr. DeRoss said to you, *Haven't you heard?*
 7 *He has been missing about a week?* Didn't he also say to
 8 you, *The last we heard he was seen on 92nd and Shore Road?*
 9 A. I don't remember hearing that.
 10 Q. Well, Mr. DiLeonardo, how long was this meeting?
 11 A. Maybe about 40 minutes, a half hour -- 40 minutes.
 12 Q. You said that during this point in time, that these
 13 comments were being made, I believe that you said
 14 Mr. Persico was standing behind Mr. DeRoss. Right?
 15 A. Slightly behind, I guess. Yes.
 16 Q. And that he was observing you. Right?
 17 A. Right.
 18 Q. He was looking at you like he had looked at you in
 19 the past, when you said you wanted to get rid of the blood
 20 oath. Right? Watching?
 21 A. That's correct.
 22 Q. Observing, looking into your eyes to see your
 23 reaction. Is that fair?
 24 A. Sure.
 25 Q. Kind of like John Gotti did when he was questioning

1 the captains about what happened to his underboss, Frank
 2 DiCicco?
 3 A. I wasn't there, but I'm sure John was looking in
 4 people's eyes.
 5 Q. You weren't there?
 6 A. When John was questioning the captains.
 7 Q. Well, Mr. DiLeonardo, you testified that when John
 8 Gotti questioned the captains, that is what he did.
 9 Right?
 10 A. No, he says he -- yes, but I wasn't there. It is a
 11 figure of speech, however. But I wasn't there like you're
 12 saying the substance I had -- I can vouch for that, I was
 13 there. You're telling me to envision myself over there.
 14 It is just a figure of speech.
 15 Q. Well, Mr. DiLeonardo, when Mr. Persico was looking
 16 into your eyes and observing you, and watching your
 17 reaction, you know full well that he knew you had and
 18 apartment on 92nd and Shore Road. Didn't he?
 19 MR. GOLDBERG: Objection.
 20 THE COURT: Sustained.
 21 BY MS. KEDIA:
 22 Q. You had and apartment on 92nd and Shore Road. Right?
 23 A. Absolutely, for years.
 24 Q. For years and years you lived right at that location?
 25 A. From '94, I believe.

1 Q. I'm going to show you what is in evidence as
 2 Government Exhibit 3.
 3 Mr. DiLeonardo, if could you step down from the
 4 stand.
 5 This is 92nd and Shore Road, that as you know it
 6 to be?
 7 THE COURT: We can't hear you.
 8 A. I'm not sure from this angle. But there were two
 9 buildings there. I'm not sure. But I did have and
 10 apartment in this building.
 11 BY MS. KEDIA:
 12 Q. You're not sure looking at that, that this is 92nd
 13 and Shore Road?
 14 A. I know this is. There is a lot of buildings there,
 15 but there is the parkway. And I had a view overlooking
 16 the parkway. Yeah.
 17 Q. Your building, in fact, covered up the entire block
 18 between 92nd and Shore Road?
 19 A. Yeah, these buildings.
 20 Q. But I'm talking about yours. Right?
 21 A. Yes.
 22 Q. And your building covered up this entire block.
 23 Right? Between 92nd and 91st on Shore Road?
 24 A. Yeah.
 25 Q. You may be seated.

1 A. Thank you.
 2 THE COURT: Are you going into a different area?
 3 Now it would probably be a good time to break.
 4 MS. KEDIA: That is fine, Judge.
 5 THE COURT: Don't talk about the case. We'll
 6 see you at 1:30. Have a good lunch.
 7 (The jury left the courtroom at 12:35 p.m.)
 8 THE COURT: About how much longer, ballpark?
 9 MS. KEDIA: I probably have another -- I would
 10 say, max, 45 minutes or so.
 11 THE COURT: All right. And you will go from
 12 there. And then I have certain evidentiary issues I want
 13 to discuss with counsel, probably that will be later on.
 14 Okay?
 15 Have a good lunch.
 16 (A luncheon recess was taken at 12:36 p.m.)
 17 (Continued on the following page.)
 18
 19
 20
 21
 22
 23
 24
 25

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AFTERNOON SESSION

(The following took place at 1:37 p.m.)

THE COURT: The government has had an opportunity to review what was marked as AB, I believe.

MS. KEDIA: Defendant is AB, yes, your Honor. And they have no objection.

THE COURT: Be seated. You are still under oath.

Ms. Kedia, please continue.

MS. KEDIA: Thank you, your Honor. If I may offer at this time defendant's Exhibit AB in evidence?

MR. GOLDBERG: No objection.

THE COURT: Received in evidence. (Defense Exhibit Persico AB in evidence.)

BY MS. KEDIA:

Q. Mr. DiLeonardo, if you can do you step down, please. Mr. DiLeonardo this is a map of Brooklyn, as you know it to be. Right?

THE COURT: It is not visible. Okay if at all possible, try not to stand in front of it. We'll give you one of our very special pointers, Charlie?

DiLeonardo - Cross/Ms. Kedia
2087

BY MS. KEDIA:

Q. Correct?

A. Yes.

Q. The bagel store that we were talking about is located where on this map?

A. (Indicating)

Q. 86th Street and 5th Avenue?

A. Right.

Q. And the park where the school yard is, where you said you are were meeting Mr. Persico. We're talking about a location on 81st Street. Is that right?

A. Yes.

Q. Right around, I'm pointing to where the map reads New Utrecht Avenue?

A. No.

Q. Where?

A. I'm looking for -- here, right around here.

Q. Street and 12th Avenue?

A. Right.

Q. So maybe from, a couple of, a few avenues as well as several streets?

A. Close proximity. Yes.

Q. And your apartment on 91st and Shore Road. It takes up the block between 91st and 92nd and Shore Road?

A. This right here.

DiLeonardo - Cross/Ms. Kedia
2088

THE COURT: I can't hear you.

A. Right here, right under here on the water.

MR. GOLDBERG: Your Honor, I'm not sure if the jurors can hear.

THE COURT: Can you see?

BY MS. KEDIA:

Q. Now Mr. DiLeonardo you may be seated?

A. Yes.

Q. Mr. DiLeonardo, this apartment of yours on 92nd and Shore Road was something that you said you had since 1994.

A. Yeah, about that.

Q. And that certainly wasn't the main home that you were residing in this Brooklyn. Right?

A. That's correct.

Q. And then eventually you said you moved to Staten Island but you still maintained this apartment?

A. That's correct.

Q. On 92nd and Shore Road. Right?

A. Yes.

Q. Who was living in this apartment?

A. I was. And then later on Madelina moved in.

Q. What years were you living in the apartment?

A. Well, I wasn't living there. I was using the apartment. I lived in my primary residence.

Q. What were you using the apartment for?

DiLeonardo - Cross/Ms. Kedia
2089

A. Entertainment.

Q. Meaning?

A. Chill out, relax, have my friends up for football, and my girlfriends.

Q. So there were several girlfriends?

A. In my lifetime, hundreds.

Q. I'm talking about this apartment in particular, this one at 92nd and Shore Road?

A. Yeah, there were several.

Q. There were several?

A. Yes, before Madeline.

Q. Before Madeline. So while you were married, though?

A. Absolutely.

Q. And this is where you used to have them come?

A. Right.

Q. And you said you also had other people, male friends come as well?

A. Yes, to watch football.

Q. I'm going to show you what I am marking as Defendant's Persico AL, AL, AM and AN.

If you could take a look at these, Mr. DiLeonardo?

THE COURT: While the witness is reviewing this, could you come up for a minute?

(The following occurred at sidebar.)

DiLeonardo - Cross/Ms. Kedia
2090

1 THE COURT: Did you get copies for government?
 2 MS. KEDIA: I have shown them to the government.
 3 I didn't give them a copy.
 4 MR. GOLDBERG: She showed them to me.
 5 THE COURT: The answer is, No, you didn't give a
 6 copy to the government?
 7 We went through this, this morning. I want to
 8 save time. I don't need unnecessary objections. I don't
 9 need the government being shown these two seconds before
 10 you're going to introduce them.
 11 If you have any other photographs, turn them
 12 over, and let's make copies of them. Because I sit up
 13 here like a real fool. I have no idea what the photos
 14 are, and I think it's incumbent upon you.
 15 You know you're going to be crossing this
 16 witness, this directly relates to him and his apartment.
 17 MS. KEDIA: You're absolutely correct, your
 18 Honor. But I didn't make copies.
 19 THE COURT: All right.
 20 (The following occurred in open court:)
 21 BY MS. KEDIA:
 22 Q. Mr. DiLeonardo, you have had a chance to review those
 23 photographs?
 24 A. Yes.
 25 Q. Do you recognize them?

DiLeonardo - Cross/Ms. Kedia
2092

1 A. 9101.
 2 Q. And again, your building is depicted here. Right?
 3 A. Correct.
 4 Q. This is the corner of 92nd and Shore Road, the
 5 intersection?
 6 A. Okay.
 7 Q. And your building is this building over on the
 8 left-hand side of the picture. Right?
 9 A. Right.
 10 Q. And finally, if you look here at 92nd and Shore Road,
 11 your building is the one that takes up that block. Right?
 12 A. That's correct.
 13 Q. And when you come out of your entrance, you can see
 14 Shore Road, and you can see the corner 92nd and Shore
 15 Road. Right?
 16 A. Actually that entrance is here, actually it says in
 17 the front facing Shore Road.
 18 Q. It is closer to 92nd then?
 19 A. It is right on the Shore Road.
 20 Q. Its right on Shore Road?
 21 A. Yes. The garage is on the side.
 22 Q. And Shore Road is visible to you?
 23 A. Right.
 24 Q. Did you ever meet, Mr. DiLeonardo, at the park across
 25 the street?

DiLeonardo - Cross/Ms. Kedia
2091

1 A. Yes.
 2 Q. What do you recognize them to be?
 3 A. That looks like the building that I lived in.
 4 MS. KEDIA: I offer Defendant's Persico I
 5 believe that's AL, AK through AN.
 6 MR. GOLDBERG: No objection, your Honor.
 7 THE COURT: Received in evidence.
 8 (Defense Persico Exhibits AL, AK through and in
 9 evidence.)
 10 BY MS. KEDIA:
 11 Q. Now Mr. DiLeonardo, if I may take them from you.
 12 I'm going to show you what is in evidence as
 13 Defendant's AL.
 14 This is the corner here of 92nd and Shore Road.
 15 Right?
 16 A. Right.
 17 Q. And in fact your building is this one. Right?
 18 A. That could be. It's either this one or this one. I
 19 think it is this one. Yes.
 20 Q. Between 91st and 92nd. Right?
 21 A. Yes, right.
 22 Q. And in fact it faces out towards Shore Road and to
 23 the water. Right?
 24 A. Correct.
 25 Q. This is actually the front of your building?

DiLeonardo - Cross/Ms. Kedia
2093

1 A. I believe I may have a few. Yes.
 2 Q. Who did you meet with?
 3 A. Jackie Damico and I met a couple of times there.
 4 Phil Mordica. And on my block across the street from the
 5 block I met Philly Mordica, Ronnie Tragello, Ronnie
 6 One-Arm, and Skinny Dom
 7 Q. And these three people you just identified, Phil
 8 Mordica, Ronnie One-Arm and Skinny Dom?
 9 A. Right.
 10 Q. These are people who were associated with the Gambino
 11 family?
 12 A. Yes. Also Dan was associated, also Dan Romano.
 13 Q. Also someone associated with the Gambino family?
 14 A. Yes.
 15 Q. And Damico you talked about earlier, he was at one
 16 point your captain, and certainly was associated with the
 17 Gambino?
 18 A. And also members of my crew. I would make them walk
 19 down by the water.
 20 Q. You would walk down by the water?
 21 A. Yes.
 22 Q. Did you meet Billy Cutolo there?
 23 A. No.
 24 Q. Now Mr. DiLeonardo, you're aware that Billy Cutolo
 25 was dropped off at that location right near, next to your

DiLeonardo - Cross/Ms. Kedia

2094

- 1 apartment building?
 2 A. I have heard that. But I don't remember when though.
 3 Q. Did you tell the government that you lived right
 4 there?
 5 A. Sure. They knew. They used to surveil me there all
 6 the time.
 7 Q. Who surveilled you there?
 8 A. At times I didn't know who it was. But I assumed it
 9 was the FBI. They would follow my girlfriend around
 10 Madeline at times and myself.
 11 Q. When Billy Cutolo first was missing, or sometime in
 12 1999, did the FBI come to your apartment to interview you?
 13 A. No.
 14 Q. Did they -- you said your girlfriend was staying
 15 there at the time?
 16 A. Yes.
 17 Q. What girlfriend was that?
 18 A. I told you, Madelina.
 19 Q. Madelina was staying there at that time?
 20 A. Yes.
 21 Q. And how long was she living at that place?
 22 A. Until December 2000.
 23 Q. Did anyone from the FBI or US Attorney's office, or
 24 any law enforcement body come interview Madelina about
 25 Billy Cutolo's disappearance?

DiLeonardo - Cross/Ms. Kedia

2095

- 1 A. No.
 2 Q. Did you know your neighbors in that apartment
 3 building?
 4 A. Not really.
 5 Q. Did you have occasion to speak with any of them?
 6 A. No, not really. Hellos and goodbyes. That's about
 7 it.
 8 Q. Are you aware of any investigation that was done by
 9 law enforcement in your apartment building?
 10 A. No.
 11 Q. Now Mr. DiLeonardo, you testified about, I believe
 12 you were asked on direct examination if you're aware that
 13 members of organized crime employed investigators when
 14 preparing this case for trial. Do you recall that?
 15 A. Yes.
 16 Q. And you said they do, and the purpose is basically,
 17 it's about cases, trying to find out about witnesses, bad
 18 acts that witnesses may have done?
 19 A. That's correct.
 20 Q. And doing a background check on various witnesses,
 21 trying to dig up dirt about people and trying to find out
 22 about maybe what they're doing that is not known to
 23 everyone. Right?
 24 A. Yes.
 25 Q. And that is not necessarily even known to law

DiLeonardo - Cross/Mr. LaRusso

2096

- 1 enforcement. Right?
 2 A. Right.
 3 Q. Mr. DiLeonardo, the purpose of these investigators in
 4 other words is to try to prove when cooperators like you
 5 are lying. Right?
 6 A. And I think like bad acts, when let's saying whenever
 7 there is material the FBI takes down these reports, maybe
 8 there is something they didn't tell the FBI. And we could
 9 try to test them on those occasions.
 10 Q. So that if the person goes to trial, a jury can
 11 understand what a cooperator is lying or telling the
 12 truth. Correct?
 13 A. Right.
 14 MS. KEDIA: I have no further questions.
 15 MR. LaRUSSO: May I, your Honor?
 16 THE COURT: Yes, please.
 17
 18 CROSS-EXAMINATION
 19 BY MR. LaRUSSO:
 20 Q. Good afternoon, Mr. DiLeonardo.
 21 A. Good afternoon. How are you, Mr. LaRusso?
 22 Q. Good.
 23 You mentioned on direct examination a beef
 24 involving a guy named Sal. Do you remember that?
 25 A. Sure.

DiLeonardo - Cross/Mr. LaRusso

2097

- 1 Q. Do you know him by any other nickname?
 2 A. No. In fact I never even heard of the man until that
 3 day I met him.
 4 Q. Let me just show you what is received in evidence as
 5 Government Exhibit 2-NM. And I believe it is marked
 6 Defendant's Exhibit PC. Is that the person that you knew
 7 as Sally?
 8 A. Yes.
 9 Q. At any point after meeting this individual, did you
 10 come to learn that he was also known as Sally Botts?
 11 A. I think I did. Yes.
 12 Q. And did you come to learn why he was called Sally
 13 Botts?
 14 A. Well, I didn't have learn it. I lived with him for a
 15 couple of months. Strange fella.
 16 Q. You're talking about this individual that you have
 17 identified as Sally?
 18 A. Yeah.
 19 Q. You lived with him. Does that mean in jail?
 20 A. Yeah.
 21 Q. And would that be in one of the institutions where
 22 prisoners are, who are cooperating, are kept away from
 23 general population?
 24 A. Yes. This was the MDC.
 25 Q. How long were you with Sally Botts?

- 1 A. I would say at least two months.
 2 Q. And would it be fair to say that having spent that
 3 time, you came to know why he was called Sally Botts. Is
 4 that correct?
 5 A. Yes. A few idiosyncrasies.
 6 Q. In a word, he is crazy?
 7 A. He wasn't crazy. He wasn't running around chasing
 8 butterflies.
 9 Q. Pretty funny?
 10 A. Yeah. And they gave him that name.
 11 Q. What I would like to do is get back to the incident
 12 with Sally.
 13 A. Okay.
 14 Q. I believe you told us that an associate of yours,
 15 that you hadn't seen for awhile, I believe you identified
 16 him as Anthony?
 17 A. Yes.
 18 Q. He came to your house out in Staten Island?
 19 A. Yes.
 20 Q. And I believe to use your words, in a *panic*?
 21 A. Yeah.
 22 Q. Somebody had been threatening him, I believe you
 23 said, his family his dog, everything, if he didn't pay
 24 money that would go to this person that you later learned
 25 was Sally. Correct?

- 1 A. Yes. As a matter of fact, the kid when he called
 2 him, or the guy when he called him on the phone, he let me
 3 hear what this guy was saying, which was Sally. And it
 4 was like all of that stuff, *I'll kill you. I'll kill*
 5 *everything.*
 6 Q. Did this person call Sally on the phone in your
 7 presence?
 8 A. Yes.
 9 Q. And can you just relate to us to the best of your
 10 recollection, what the conversation was that you
 11 overheard?
 12 A. He says: Sally, I'm going to come and see you. And
 13 he just went, was railing on. He was just yelling as much
 14 as I could make out. I heard the words, *I'll kill you.*
 15 *I'll kill this.*
 16 And when he calmed down, he said, *I'll come and*
 17 *meet you.* So I told him to make the appointment at 14th
 18 Avenue and 86th Street. There was a bagel store there.
 19 Q. You didn't get on the phone. You had asked Anthony
 20 to arrange a meeting. Is that correct?
 21 A. Right.
 22 Q. And did you ask Anthony to tell him who he was going
 23 to meet, or just to meet you?
 24 A. No. He was going to meet him.
 25 Q. And were you going to catch him by surprise? You

- 1 were going to deal with Sally on your own at this point.
 2 Is that correct?
 3 A. Yes.
 4 Q. And this was over what?
 5 A. I believe it was \$14,000, shylock money.
 6 Q. And this money wasn't even owed, wasn't even borrowed
 7 by Anthony. Was it?
 8 A. Well Anthony was like a shill, he was.
 9 Q. I'm sorry?
 10 A. A shill. Like he was put up front for another guy
 11 with tremendous gambling problem who couldn't borrow money
 12 from certain people. So he put Anthony up front to borrow
 13 this money. Like he vouched for it.
 14 So when Sally gave the money to Anthony, Anthony
 15 was responsible to this kid Mark. Because that was the
 16 guy in the back, Mark.
 17 Q. So that this Anthony was sort of vouching for this
 18 individual that owed the money to Sally. Is that fair?
 19 A. No. He took the money.
 20 Q. Okay.
 21 A. He took the money out of Sally's hands, from what I
 22 understand.
 23 Q. And when this meeting was arranged with Sally, was
 24 that the same day?
 25 A. Oh, yes. I left my house that night. I got dressed

- 1 and I left.
 2 Q. And you went down to the location?
 3 A. Right.
 4 Q. And the first time you met Sally?
 5 A. Right.
 6 Q. And that person who in the photograph that I showed
 7 you earlier. Is that correct?
 8 A. That does him a service.
 9 Q. What do you mean?
 10 A. His hair was all disheveled. He was the
 11 discombobulated type. You can see, when you pulled up he
 12 was on his toes, very nervous.
 13 Q. Did you form an opinion whether or not he might have
 14 been on any drugs or anything like that?
 15 A. No. He seemed -- well, when I first got there he
 16 recognizes me. I don't know him. And before I even, he
 17 sees me walking over with Anthony, he just he just
 18 dropped, you know. He can't win no more. I guess like I
 19 said, he knew me.
 20 Q. He knew you were a captain in the Gambino family.
 21 Correct?
 22 A. Right.
 23 Q. And what happened?
 24 A. He said. *We got mutual friends.*
 25 And he starts copping out a bit calmed down. He

DiLeonardo - Cross/Mr. LaRusso

2102

1 calmed down. He wasn't yelling. He wasn't screaming.
 2 We went into the bagel store. The kids in the
 3 bagel store, I knew.
 4 So like I said, he calmed down, and he mentioned
 5 Jackie's name. He said, *I'm with Jack*.
 6 Q. And I believe as a matter of fact at this point in
 7 time you actually said he threw the name Jackie out at
 8 you. Correct?
 9 A. Right. Exactly.
 10 Q. By the way, while I'm on it, Jackie is Mr. DeRoss.
 11 Is that correct?
 12 A. Correct.
 13 Q. You have identified him here in court today.
 14 In all of the meetings you had with Mr. DeRoss,
 15 he was a person who is Jackie. Correct?
 16 A. Right.
 17 Q. And every time that you would attend meetings when he
 18 was there, you would talk, and he would use the name *Jack*?
 19 A. Correct.
 20 Q. That was the name he was known as, as far as you
 21 recall in all of your dealings either with him or other
 22 members?
 23 A. I would say so, sure.
 24 Q. Now after he throws out this name, would it be fair
 25 to say that at that point you tell him, *I want to meet*

DiLeonardo - Cross/Mr. LaRusso

2104

1 Q. When you got to meet Mr. DeRoss at this meeting, he
 2 was pretty active in telling him what happened?
 3 A. Yes. Because Sal had a big mouth, I mean just
 4 blabber. That is when I learned about him later on.
 5 Q. You learned about Sally?
 6 A. Yes.
 7 Q. But Mr. DeRoss was angry, not at you?
 8 A. Yes.
 9 Q. He was angry at Sally. Is that correct?
 10 A. Yes.
 11 Q. He was angry, because you told him that one of your
 12 associates had been threatened by this person Sally, Sally
 13 Botts. Is that right?
 14 A. Well, it wasn't so much as a guy who was around me.
 15 It was the manner this guy was conducting himself.
 16 Because he goes on the phone and he is, I guess I didn't
 17 know about this guy's pedigree at all, never heard of this
 18 kid. And he is on the phone threatening to kill people.
 19 He jeopardizes Jack. Just his demeanor, like that. It
 20 wasn't that I was, you know.
 21 Q. And that would upset Mr. DeRoss?
 22 A. Correct.
 23 Q. And he was angry not again at you, but at Sally, the
 24 way he was conducting himself with regard to this
 25 situation?

DiLeonardo - Cross/Mr. LaRusso

2103

1 Jackie?
 2 A. Yeah. I said, *I'll straighten it out with Jackie*.
 3 Q. When you said, he said he is with Jackie; that is not
 4 the technical term that we have been hearing on the
 5 record. Was he in Jackie's crew at this point in time as
 6 far as you knew?
 7 A. At that time he became --
 8 Q. Billy Cutolo had already disappeared at this point?
 9 A. That's correct.
 10 Q. Now did there come a time you met with Mr. DeRoss?
 11 A. Yes.
 12 Q. Where?
 13 A. I think it was on his block. I'm not sure, but it
 14 was in Staten Island.
 15 Q. The same day or sometime later?
 16 A. No. This was sometime later.
 17 Q. And who was present at this meeting?
 18 A. Just Jackie and myself, I believe.
 19 Q. Would it be fair to say that it was captain to
 20 captain at this point this time?
 21 A. Yes, right.
 22 Q. And this was for the purpose of settling the beef
 23 between your associate Anthony, and the threats that were
 24 beak made by Sally. Right?
 25 A. Correct.

DiLeonardo - Cross/Mr. LaRusso

2105

1 A. Correct.
 2 Q. And as a matter of fact, he was so upset about it, he
 3 said to you, *Let me just cancel this debt*?
 4 A. Correct.
 5 Q. Is that right?
 6 A. That's right.
 7 Q. He was willing to forego the money that was owed to
 8 Sally. Is that right?
 9 A. Right.
 10 Q. In addition, you said *Wait a minute. The debt is*.
 11 *It is an obligation. It has to be paid.* So you both
 12 agreed to settle for \$7500, I believe was your testimony?
 13 A. That's correct.
 14 Q. In your dealings with Mr. DeRoss, would it be fair to
 15 say that that sort of his general manner in dealing with
 16 beefs? You're shaking your head. Do you agree with me?
 17 A. Absolutely. He was a great guy.
 18 Q. And if there is a dispute or a beef, he is trying to
 19 resolve it peaceably, amicably, to do the right thing. Is
 20 that correct?
 21 A. Absolutely.
 22 Q. The fair thing?
 23 A. Absolutely.
 24 Q. Whether it's to his benefit or it is to someone
 25 else's benefit. Is that right?

1 A. That is what pure Cosa Nostra is supposed to be
2 about. When two friends sit down together.
3 Q. And that is the way you looked at Mr. DeRoss whenever
4 you met him. Correct?
5 A. Correct.
6 Q. Now you had spoken with Mr. DeRoss, I think you said
7 on dozens of occasions?
8 A. Yeah, a couple of dozen.
9 Q. Give or take?
10 A. Yes, about 20 times.
11 Q. And that would be both before Mr. Cutolo disappeared
12 and after. Is that right?
13 A. Right.
14 Q. And those meetings with Mr. DeRoss, I believe you
15 said centered around construction industry, politics of
16 Mafia, some beefs and transfers of guns. Is that a fair
17 statement of what you would say these meetings with
18 Mr. DeRoss were about?
19 A. Correct.
20 Q. Do you remember ever meeting Mr. DeRoss at a football
21 field?
22 A. Oh, absolutely, with his grandchildren.
23 Q. Did you have someone there?
24 A. My son Michael and his grandchildren used to play
25 football together on the same team. And I would meet him

1 there.
2 Q. And you would talk to Mr. DeRoss right?
3 A. Absolutely. We would talk about everything,
4 especially mainly the kids.
5 Q. And you would talk about your son?
6 A. Absolutely.
7 Q. Now he would also talk about not only his children,
8 but also his grandchildren. Is that right?
9 A. Absolutely, yes.
10 Q. And would it be fair to say when you met with him at
11 these football games or these football occasions, that
12 would be the general nature of your discussions?
13 A. Correct.
14 Q. And how many years would you say you met Mr. DeRoss
15 on Staten Island, how you phrased it, on the football day?
16 A. I think it was Tuesdays and Thursdays, for a season
17 or a season and-a-half.
18 Q. And before I forget, I had a questions I wanted to
19 ask and I forgot.
20 When you were at the MDC with Sally, Sally
21 Botts, was Mr. Campanella there with you at the same time?
22 A. Yes. I think Sally left already. I think Joe came
23 after Sally was out. Yes. He got shipped out.
24 Q. Now you mentioned that you came to learn that
25 Mr. DeRoss was the underboss. Do you recall that

1 testimony on direct examination?
2 A. Right.
3 Q. You didn't learn that at the meeting that at Joe
4 Spota's house. Is that right?
5 A. Right.
6 Q. That comes sometime later. Is that right?
7 A. Right.
8 Q. That you learned that information. And would it be
9 fair to say that you learned that information not formally
10 through an introduction, but through other individuals.
11 Is that correct?
12 A. I heard it that way. And I believe, Eddie Garafolo
13 introduced us.
14 Q. Are you sure of that?
15 A. Pretty sure, yes.
16 Q. And when was that?
17 A. I would say within a month a couple of weeks a month.
18 I'm not sure.
19 Q. A couple of weeks or a month from what. I'm sorry?
20 A. From not being at Spota's house.
21 Q. So it would have been shortly after Mr. Cutolo
22 disappeared. Is that correct?
23 A. Yes.
24 Q. And what happens to a captain's crew when, let's say
25 the captain is elevated to the underboss' position?

1 A. Well, that is up to the administration. They can
2 appoint somebody from the crew. They can break up the
3 crew. It depends.
4 Q. What generally happens to the captain's crew? When I
5 say *crew*, I guess I should be more specifics. Let me
6 withdraw my question.
7 A crew is comprised of wiseguys and associates?
8 A. Correct.
9 Q. And after, let's say a captain is elevated to the
10 position of underboss, what can happen, what happens to
11 the wiseguys? I'll deal with the associates in a minute.
12 What happens to the wiseguys, what happens to them?
13 A. Depends. Like I said, depends on who they put in
14 place. It could be an acting captain, or it could be
15 someone promoted from within the crew, or somebody can
16 handle it.
17 Q. I see what you mean.
18 A. Like I said Fernando, he was like a consiglieri. But
19 there was captain there. But he ran the whole crew. So
20 it depends.
21 Q. But in any event, usually the soldiers, a captain or
22 acting captain after the person is elevated, let's say to
23 the higher up position?
24 A. Right.
25 Q. Traditional structure would be soldiers work, and you

- 1 are captain?
 2 A. Correct.
 3 Q. So would it be fair to say that a soldier should know
 4 who he is reporting to?
 5 A. Oh, yes.
 6 Q. And the soldier should be radio aware that, who the
 7 captain is?
 8 A. Right.
 9 Q. The first person that a soldier should really be
 10 reporting to about what he is involved in. Is that right?
 11 A. Yes.
 12 Q. Now Mr. Campanella, you testified I believe that, Joe
 13 *Campy was a friend of mine*. Do you recall that?
 14 A. Yes.
 15 Q. Does that have a significance, that phrase, *friend of*
 16 *mine*?
 17 A. Well --
 18 Q. To you in the street.
 19 A. In the street, when you say a *friend of mine*, it is
 20 more like an associate. When you introduce a friend of
 21 ours, that means he is introduced as another member.
 22 Q. Now at the time you were talking about your
 23 relationship with Mr. Campanella, you knew him to be a
 24 soldier?
 25 A. Yes.

- 1 Q. So your use of the word *friend of mine*, was just in a
 2 traditional sense, somebody that I knew and we became
 3 friends outside of, let's say the Mafia?
 4 A. Okay.
 5 Q. Is that a fair statement?
 6 A. Yeah.
 7 Q. But when you knew Mr. Campanella, he was a wiseguy.
 8 He wasn't a soldier. He was, quote, *a friend of ours*, so
 9 to speak, as opposed to *a friend of mine*?
 10 A. Sure.
 11 Q. Who was he a friend with?
 12 A. Bill.
 13 Q. And during the time that you knew Mr. Campanella, how
 14 long was Mr. Campanella on record with Mr. Cutolo?
 15 A. As far as I know going way back.
 16 Q. So up until the time you get arrested -- withdraw
 17 that.
 18 Up until the time Mr. Cutolo disappeared, your
 19 recollection is that Mr. Campanella was with Mr. Cutolo.
 20 Is that right?
 21 A. Right.
 22 Q. Frank DeCicco?
 23 A. Yes.
 24 Q. The underboss of the Gambino family, you said was
 25 murdered April 13, 1986, I believe. Is that correct?

- 1 A. That's correct.
 2 Q. And you testified that he was one of the most loved
 3 members of the Gambino family. Is that correct?
 4 A. Yeah, sure.
 5 Q. Now would you describe Billy differently, Billy
 6 Cutolo?
 7 A. Well, at that point there was a war going on in the
 8 family. So I don't know.
 9 Q. Would you say that Billy Cutolo did not have the
 10 same, people did not have the same opinion of Mr. Cutolo
 11 that they had of Frank DeCicco?
 12 A. Right. Frankie was more an administrator. Yes.
 13 Q. And in terms of how the people perceived these
 14 individuals, Mr. Cutolo had, made many enemies?
 15 A. Yeah. Yeah, he had enemies.
 16 Q. Now under the rules of the La Cosa Nostra, what would
 17 have happened to the individuals who were involved,
 18 particularly the captains in the Gambino family if they
 19 had been identified as behind the assassination of
 20 Mr. DeCicco?
 21 A. They would have been slaughtered.
 22 Q. Now they weren't identified as the time of the
 23 incident or thereafter, it was shortly thereafter. Is
 24 that correct?
 25 A. That's correct.

- 1 Q. So it was difficult to seek revenge or execute them
 2 if you don't know who is responsible?
 3 A. That's correct.
 4 Q. As a matter of fact, many years later, these
 5 individuals were identified. Is that correct?
 6 A. Yes, the families were, yes, sure.
 7 Q. And after having been identified, they were never
 8 executed, no revenge was taken against them. Is that
 9 correct?
 10 A. That's correct.
 11 Q. Approximately how long after the death of Mr. DeCicco
 12 were the individuals who were responsible identified, to
 13 the best of your knowledge?
 14 A. From '86, I would say '93, '94.
 15 Q. And so at that point in time John Gotti, Jr was still
 16 the boss of the Gambino family?
 17 A. Yes. He was the captain of the family.
 18 Q. And John Gotti, Sr was really the boss over everyone?
 19 A. That's correct.
 20 Q. Let me change this a little bit.
 21 You talk about Paul Castellano?
 22 A. Sure.
 23 Q. You mentioned sometime around December of 1985 he was
 24 killed outside of Starks Steakhouse?
 25 A. Sparks.

1 Q. Sparks Steakhouse?
 2 A. Yes.
 3 Q. And at that point in time, I think you say you were
 4 an associate of the Gambino family?
 5 A. Right.
 6 Q. And you were part of that inner circle. So you were
 7 privy to what was taking place?
 8 A. Not on that incident. I didn't know what was going
 9 on then.
 10 Q. So you had no knowledge prior to Mr. Castellano's
 11 death about what was taking place?
 12 A. Right.
 13 Q. You certainly learned later, correct, from the
 14 members of the Gambino family who participated in the
 15 killing of Mr. Castellano?
 16 A. Right.
 17 Q. There were shooters?
 18 A. Right.
 19 Q. The actual shooters of Mr. Castellano?
 20 A. Sally Scala, Eddie DiLeo, Vinnie Artulso, and I
 21 believe John Cannadia (ph). These were four, but there
 22 were many people on site there.
 23 Q. Can you explain to us so we understand?
 24 A. In other words, there was two targets. They put two
 25 shooters on each guy; one on Paul Castellano and one on

1 "Answer: Well, the reason you act in teams is
 2 to make sure it goes off okay. No individual is on the
 3 outside, police or citizen try to circumvent them from
 4 getting involved with the crime itself, and to get away
 5 with the crime. We have different people, very different
 6 roles to insure that, that we could get away with this
 7 without having anybody else hurt and escape.
 8 "Question: What was your typical number of
 9 people that might have been involved in a murder plan?
 10 "Answer: Depending where it was, six, eight,
 11 could be six to eight people."
 12 Do you recall giving that testimony under oath?
 13 A. Sure.
 14 Q. So would you agree with me that the general practice
 15 in the Gambino family in regards to sanctioned murders was
 16 to use teams between six and eight people?
 17 A. Yes.
 18 Q. Now being specific; when Frank DeCicco died, he is
 19 the underboss of the Gambino family. Correct?
 20 A. Right.
 21 Q. What illegal activities was Mr. DeCicco involved in
 22 at this point. Do you recall?
 23 A. Yeah. He was helping with the unions with Robert
 24 DiBernardo, teamsters union, locals, the contractors, he
 25 was a major shylock. Frank did all of the work. He was

1 Tommy Belotti. But then they had another maybe ten guys
 2 in the area as backup shooters, just in case something
 3 went wrong.
 4 Q. Now in the Gambino family during the time you were an
 5 associate Captain, a member, was there a general policy or
 6 let's say an accepted practice in regards to when a murder
 7 is committed, how many people should be involved?
 8 Specifically now, I'm referring to just your family, the
 9 Gambino family?
 10 A. No. There was never a specific number. It could be
 11 any. It could be one to ten, like I said.
 12 Q. Do you recall testifying in a prior proceeding at --
 13 MR. LaRUSSO: 3500 MDL 159, your Honor.
 14 Q. Being asked these questions answer giving these
 15 answers. I'll wait for the Court to find the page.
 16 THE COURT: What page?
 17 MR. LaRUSSO: 893 line 11 to 25.
 18 BY MR. LaRUSSO:
 19 Q. Do you recall being asked these questions and giving
 20 these answers?
 21 "When a murder was committed in the Gambino
 22 family, was the general practice to act alone or to work
 23 with a team?"
 24 "Answer: There were teams.
 25 "Question: Can you explain that a little more?

1 one of those, one of the main inner circle guys doing the
 2 work in the family.
 3 Q. He was actually, an earner?
 4 A. Oh, yeah, big guy.
 5 Q. Was an earner, even though he was an underboss?
 6 A. Yeah, sure.
 7 Q. So take on the role of an associate as well as a
 8 member of the hierarchy. Is that right?
 9 A. What do you mean as and associate?
 10 Q. He was willing to get down and dirty, just like an
 11 associate in terms of getting dirty?
 12 A. A blue collar guy.
 13 Q. So in other words, Mr. DeCicco earned that reputation
 14 of being loved, because was willing to do just that?
 15 A. Absolutely. He wouldn't ask you to do something he
 16 wouldn't do himself.
 17 Q. Now Mr. DeCicco, you say is one of the major loan
 18 sharks.
 19 How much would you estimate his book to be at
 20 the time he died?
 21 A. No clue. After he died, Joe was, had picked up his
 22 book. And apparently he was over a million dollars or so,
 23 something like that. I'm not sure, but I know it was.
 24 Q. It was substantial?
 25 A. Substantial.

1 Q. Would it be more substantial than yours at the
 2 highest?
 3 A. Absolutely.
 4 Q. Now I believe you told us that -- I'll change the
 5 question.
 6 There were people who took his position. Is
 7 that correct, after he was killed?
 8 A. Right.
 9 Q. How many underbosses do you remember taking over for
 10 Mr. DeCicco after he was killed?
 11 A. Well, it wasn't official. The only official one was
 12 Gravanno. And then there was actors in between there.
 13 Q. But these acting under the super boss took off
 14 DeCicco had nothing to do with the prior?
 15 A. Correct.
 16 Q. What happened before that -- after Mr. DeCicco died,
 17 his illegal activities, I believe you called them of --
 18 activities that were really part of the Mafia, that he was
 19 supervising? Did anyone make an account? Did anyone try
 20 to make a determination what those holdings were?
 21 A. Absolutely.
 22 Q. And that really is protocol. That's required in the
 23 family if somebody such as Mr. DeCicco dies, he must
 24 determine what his family activities were?
 25 A. Right.

1 Q. And the reason that is done, is because the loan
 2 sharking and other criminal activities are not his as an
 3 individual?
 4 A. Correct.
 5 Q. As a matter of fact, those activities are part of the
 6 Brogada (ph), I believe you testified before. Is that
 7 correct?
 8 A. Correct.
 9 Q. And Brogada (ph), what is the meaning layman's
 10 terminology for that?
 11 A. The family, the group, the enterprise.
 12 Q. And it belongs not to the underboss, not to the boss,
 13 but to the family?
 14 A. Right.
 15 Q. As a matter of fact, I think you also said it belongs
 16 to La Cosa Nostra?
 17 A. Right.
 18 Q. It doesn't even belong to the boss?
 19 A. Right.
 20 Q. It is being serviced by these individuals?
 21 A. That's correct.
 22 Q. So it's not unusual after an underboss dies that
 23 somebody is appointed to find out what the extent of his
 24 activities, criminal activities were so that a proper
 25 reporting could be made to the boss?

1 A. Right. And so somebody could service those --
 2 Q. And so somebody could service it after it has taken
 3 place?
 4 A. Right.
 5 Q. Now I really have just a few mother questions,
 6 Mr. DiLeonardo.
 7 You talked about your arrest down in Atlanta, I
 8 believe it was September of 2000?
 9 A. Right.
 10 Q. You weren't actually arrested on the street, you
 11 surrendered?
 12 A. Surrendered, yes.
 13 Q. That is what you testified to?
 14 A. Yes.
 15 Q. But you got word that an indictment was returned, and
 16 they were going to arrest you on the charges that you have
 17 identified for us before. Correct?
 18 A. If I may articulate?
 19 Q. Please.
 20 A. Going back to the, when John, Jr got arrested, there
 21 was rumors that I was going to be superseded, or added to
 22 his case. So I was in contact with the White Plains
 23 office up there with my attorney, telling them if you want
 24 Michael, he is here. He is not going anywhere. He'll
 25 surrender. And then when I didn't get superseded, in that

1 case, Stevie Cappa in Atlanta was under investigation.
 2 And there was rumors coming out that he was going to get
 3 arrested.
 4 And he does first. So I go to my attorney,
 5 again with Steve Cappa. And I was called there. And he
 6 explained, he said; Michael is there. You don't have to
 7 come there and knock down his door. He is willing to come
 8 down there and surrender.
 9 So they didn't come to me. They said, *We'll let*
 10 *you know.* And then when they did, they contacted with the
 11 lawyers and prosecutor. I fly down there with my attorney
 12 and I surrendered.
 13 Q. Now you spend how many days in jail before you were
 14 released?
 15 A. Zero.
 16 Q. You were released the same day you surrendered. Is
 17 that correct?
 18 A. Right.
 19 Q. And you were released with a number of conditions.
 20 Is that right?
 21 A. Correct.
 22 Q. I believe you told us that a bracelet was put on you?
 23 A. Right.
 24 Q. Explain to us what a bracelet is so we understand?
 25 A. It's a monitor. And there is a box put inside your

1 house. And they coordinate. And it is set for a certain
2 time, that if you're not in the house by those times, it
3 would alert the Probation Department. And they would
4 start looking for you.

5 Q. As a matter of fact, that bracelet didn't remain on
6 you throughout the whole period that you were under
7 supervision before trial. Is that correct?

8 A. That's right. We applied from the Atlanta division
9 of probation, and I believe it was the Eastern District,
10 and I wanted to take the bracelet off. The Judge went
11 along with it, and I got it taken off.

12 (Continued on the following page.)

1 left the house, is that correct?

2 A No.

3 Q You weren't asked to put a tap on your home telephone,
4 were you?

5 A No, but I'm sure it was. I always assumed my phone was
6 tapped, sure.

7 Q But you weren't, as part of your release conditions,
8 authorizing any law enforcement agency to tap your telephone,
9 that correct?

10 A No.

11 Q That wasn't imposed upon you?

12 A No.

13 Q And how much bail is posted for your release, do you
14 remember?

15 A I think it was my house, my wife's house in Staten
16 Island.

17 Q One house?

18 A One house.

19 Q If you broke any of the bail conditions, you possibly
20 could have forfeited the house?

21 A Possibly, could be, sure.

22 Q Again, there was one other condition that was imposed
23 upon you, you had to stay away from felons -- you are smiling.

24 A Go ahead.

25 Q This was a problem to you, correct?

1 CROSS-EXAMINATION (cont'd)

2 BY MR. LaRUSSO:

3 Q And that permitted you to be outside the house, even
4 though you were wearing the bracelet from about 7:00 in the
5 morning until about 10 or 11 at night, is that correct?

6 A Right.

7 Q You were then not in violation of any bail restrictions
8 when you were out of the house between 7:00 and 10:00 and
9 11:00, is that correct?

10 A Right.

11 Q And I think you told us during the time you were out on
12 bail, you continued your criminal activities, you continued
13 meeting with members of your crew, that correct?

14 A Absolutely.

15 Q Now, you also had another condition. Let me back up.

16 You didn't have home arrest, did you?

17 A No, not 100 percent house detention, no.

18 Q House detention, what was your understanding of what
19 house detention is as opposed to the curfew you were given?

20 A You are let out on bail, but you can't leave your house
21 except for certain exceptions if the Court deems so; lawyer
22 doctor, church, things like that.

23 Q The house arrest is more restrictive?

24 A Much more so.

25 Q You weren't asked to provide security guards any time you

1 A Yeah.

2 Q You were told you had to stay away from felons. Tell us
3 the conversation you had with the prosecutor down there about
4 how that was resolved.

5 A Before my release, after I was arraigned, we were going
6 to go over these conditions, and one of them told me, the
7 prosecutor, was you must stay away from felons. I said stay
8 away from felons, every time I open up the door felons fall
9 in. He locked everybody up.

10 Q Why was that a concern to you if you were going to be out
11 on bail up here?

12 A Well, because the FBI squad down there had nothing to do
13 with the FBI squad up here, so in other words, they could jam
14 me up up here if they caught me meeting with somebody, and
15 like I said, everybody that I know, you walk into a
16 restaurant, you are going to walk into a felon.

17 Q Almost every day while out on bail you expected the FBI
18 to see you meeting with a known felon, and you would be in
19 violation of the conditions that were imposed down there?

20 A Yeah.

21 Q Did you ask the prosecutor down there to try and give you
22 a list of people to be prohibited from seeing you?

23 A Sure.

24 Q Tell us what the conversation is and why you asked for
25 that.

<p style="text-align: center;">DiLeonardo - Cross/LaRusso 2126</p> <p>1 MR. GOLDBERG: I object to what the prosecutor down 2 there told him.</p> <p>3 MR. LaRUSSO: It comes from the conversation, it's 4 my understanding.</p> <p>5 THE COURT: Tell us what your understanding was of 6 your bail restrictions.</p> <p>7 A At this point, I said listen, he said don't -- he told me 8 the prosecutor in Atlanta said don't worry about it, in other 9 words, if I met somebody, I wouldn't have a problem.</p> <p>10 So I says no, I'm not going to fall into that trap. 11 I says give me a list of names I can stay away from, those 12 people I will stay away from so I don't have to worry about 13 violating with the FBI squad in New York. I thought it was a 14 trap for me. He says no, I'm not going to give you a list.</p> <p>15 Q It was resolved?</p> <p>16 A That's the way it was.</p> <p>17 Q That's how it was resolved?</p> <p>18 MR. GOLDBERG: Objection.</p> <p>19 THE COURT: Sustained.</p> <p>20 Q What was the understanding of your release to stay away 21 from felons?</p> <p>22 A To avoid them, that's what he said, avoid them.</p> <p>23 Q As best as possible?</p> <p>24 A As best as possible, correct.</p> <p>25 Q By the way, do you remember testifying in a prior</p>	<p style="text-align: center;">DiLeonardo - Redirect/Goldberg 2128</p> <p>1 gambling businesses, other illegal activities that he was 2 involved in, they belonged to the family?</p> <p>3 A Right.</p> <p>4 Q They belonged to the borgata?</p> <p>5 A Right.</p> <p>6 Q They did not belong to him?</p> <p>7 A Right.</p> <p>8 Q Matter of fact, they belonged to nobody but the family?</p> <p>9 A Right.</p> <p>10 MR. LaRUSSO: No further questions.</p> <p>11 REDIRECT EXAMINATION</p> <p>12 BY MR. GOLDBERG:</p> <p>13 Q When you were on bail in Atlanta, you knew that you could 14 not meet with felons?</p> <p>15 A Right.</p> <p>16 Q And you did that anyway?</p> <p>17 A Right.</p> <p>18 Q Mr. LaRusso just asked you some questions when Frank 19 DeCicco, the underboss of the Gambino family, was killed?</p> <p>20 A Yes.</p> <p>21 Q He asked you whether someone serviced Mr. DeCicco's 22 criminal affairs after he had been killed, right, do you 23 remember that?</p> <p>24 A Yes.</p> <p>25 Q Was there any doubt whatsoever on April 13, 1986 that</p>
<p style="text-align: center;">DiLeonardo - Cross/LaRusso 2127</p> <p>1 proceeding that you understood --</p> <p>2 MR. GOLDBERG: Objection. Foundation.</p> <p>3 Q -- you understood that the prosecutor would be soft on 4 the issue of visiting with felons?</p> <p>5 MR. GOLDBERG: Objection.</p> <p>6 THE COURT: Please give us and idea where that was.</p> <p>7 MR. LaRUSSO: Page 2367, starting line 25. I don't 8 know if we need it, Judge.</p> <p>9 Q Do you remember that?</p> <p>10 A That's possible. Like I said, I thought they were doing 11 this to trap me, so he could have went along with everything, 12 I thought he was too soft, you are right, I guess you are 13 right.</p> <p>14 Q Again, at this time, you were a captain?</p> <p>15 A Right.</p> <p>16 Q By the way, your crew wasn't taken from you, were they?</p> <p>17 A No.</p> <p>18 Q You still had supervision over your crew?</p> <p>19 A That's right.</p> <p>20 Q What would have happened -- withdrawn.</p> <p>21 Were any of your crew members taken away from you 22 after you were arrested in September of 2000?</p> <p>23 A No, matter of fact, I was asking for more.</p> <p>24 Q Lastly, I should have asked this before: Billy Cutolo, 25 when he disappeared, his loan-sharking activities, his</p>	<p style="text-align: center;">DiLeonardo - Redirect/Goldberg 2129</p> <p>1 Frank DeCicco was dead?</p> <p>2 A No, he was dead.</p> <p>3 MR. LaRUSSO: Objection, Judge.</p> <p>4 THE COURT: Overruled.</p> <p>5 Q How was Frank DeCicco killed?</p> <p>6 A Blown up in a car.</p> <p>7 Q How many people were there?</p> <p>8 A 50 or 60.</p> <p>9 Q When Frankie DeCicco was and people within the Gambino 10 family started servicing his affairs, did they go to Frankie 11 DeCicco's house and search for money?</p> <p>12 A No. Matter of fact, Joe Watts Gravano, and I believe 13 even John, Sr. and I went there with John, Jr. later on to see 14 if his wife needed anything.</p> <p>15 Q When you went there, did you bang on the walls looking 16 for hidden compartments filled with money?</p> <p>17 A No.</p> <p>18 Q Mr. LaRusso asked you some questions about soldiers 19 reporting to captains and captains reporting to underboss. 20 Do you remember that?</p> <p>21 A Yes.</p> <p>22 Q Are there situations where a soldier could be so close to 23 the underboss that he could meet with that underboss directly?</p> <p>24 A Not only soldiers, associate.</p> <p>25 Q Can you explain and example of that?</p>

DiLeonardo - Redirect/Goldberg 2130

1 A Sure. Joe Watts' father was German, his mother was
2 Italian. He could never get straightened out. Joe Watts went
3 to many bosses he was very close with, and like I said, he had
4 the ear, he had the door right there, he didn't have to go
5 through nobody.
6 Q Can you remind the jury of what it means in organized
7 crime for someone to go on the lam?
8 A That means to run away. If you are ducking the subpoena
9 or and indictment, something of that nature, or even if, let's
10 say, you commit an infraction against another member and you
11 think you may get killed for it, you run away, you go on the
12 lam.
13 Q When someone in organized crime, a made member goes on
14 the lam, do they lose their official rank in the crime family?
15 A No.
16 Q When you were introduced to Jack DeRoss after Billy
17 Cutolo's disappearance, were you introduced to him as the
18 acting underboss or the official underboss?
19 A Underboss.
20 Q Official underboss?
21 A The language of official or acting wasn't applied. It
22 was just underboss.
23 Q What was your understanding of what his rank was?
24 A Official.
25 Q You made comment a moment ago about pure Cosa Nostra.

DiLeonardo - Redirect/Goldberg 2131

1 Do you remember that?
2 A Yes.
3 Q About sitting down together and resolving things
4 peacefully and respectfully?
5 A Right.
6 Q Is it always done that way?
7 A No.
8 Q Is La Cosa Nostra a peaceful organization?
9 A No, it's -- our justice is violence, threats of violence.
10 Q Are there times when disputes are not resolved peacefully
11 and violence is undertaken?
12 A Sure.
13 Q Directing your attention to 92nd and Shore Road, you
14 testified on cross-examination that you believed that you were
15 constantly under surveillance at that location?
16 A Yeah.
17 Q You also testified that you met many people in the
18 Gambino family, including your crew around that location,
19 right?
20 A Right.
21 Q Why did you feel free to meet with these people in and
22 area that was being surveilled?
23 A I just met with them. I would take a walk, go down to
24 the park, go up the block. Whenever I was out of my house, I
25 felt like I was being surveilled.

DiLeonardo - Redirect/Goldberg 2132

1 Q Yet you met people in that area?
2 A Yes.
3 Q You were asked some questions by Mr. LaRusso about the
4 general practice within the Gambino family as to how many
5 people are used on a mob hit, do you remember those questions?
6 A Right.
7 Q He read some prior testimony, do you remember that?
8 A I believe he specifically named the Gambino family.
9 Q Are there some circumstances where a small number of
10 people are required?
11 A Sure.
12 Q What might those be?
13 A From my understanding, going back to my grandfather, they
14 said he used to work alone. He killed a lot of guys for the
15 family during the war, he worked alone.
16 Q You testified on cross-examination that the murder of
17 Paul Castellano and Tommy Billotti and the boss and underboss
18 of the Gambino family outside Spark's Restaurant involved many
19 people, four shooters, ten-plus people watching out?
20 A Right.
21 Q Was there anything special about that mob hit that
22 required so many people?
23 A It was the middle of midtown Manhattan at Christmastime,
24 rush hour. They wanted to make sure everything went right.
25 Q Anything special about the targets involved?

DiLeonardo - Redirect/Goldberg 2133

1 A The boss and newly appointed underboss.
2 Q Ms. Kedia asked you some questions about the murders of a
3 couple known as the Uvas.
4 Do you remember those questions?
5 A Sure.
6 Q You said that, I think you testified, correct me if I'm
7 wrong, that in that particular case, you wouldn't use a couple
8 of people for the killing, right?
9 A Yes, it was another outdoor thing.
10 Q Was there something about the Uvas that also required
11 more than a few people, can you explain to the jury?
12 A They were going around robbing social clubs of wiseguys
13 with a machine gun. If you are going to go fight somebody
14 with a machine gun, you better go the right way.
15 Q You have testified, during cross-examination you were
16 asked about this, about the rules against sleeping with the
17 wife of a made man, do you remember those questions?
18 A Right.
19 Q Frank Castellano, his wife was having an affair with Joe
20 Campanella?
21 A Rose.
22 Q Was Frank Castellano a made man or just an associate?
23 A Associate.
24 Q Ms. Kedia asked you a series of questions about extortion
25 and whether there are threats used when you extort or when you

DiLeonardo - Redirect/Goldberg 2134

1 shylock. Do you remember those questions?

2 A Right.

3 Q And she read you a question and answer that you agreed to

4 from your prior testimony.

5 Question: When you loaned them this money, did you

6 threaten them that if they didn't pay it back, you are going

7 to have them hurt?

8 Answer: No, I really didn't have to, but I yelled

9 at Peter Enzirillo one time.

10 Sitting here today, do you recall the question and

11 answer that followed that?

12 A No.

13 Q Showing you 3500 MDL 159, page 1199, I will ask you to

14 read to yourself lines 15 through 21.

15 A (Complying)

16 Q Does that refresh your recollection?

17 A Yes.

18 Q Why don't you explain to the jury what you mean when you

19 said initially I didn't really have to threaten people?

20 Explain.

21 A The thing is when you give somebody the money, you don't

22 say if you don't pay this back I'm putting you in the

23 hospital. You don't have to say that. There is and

24 understanding, they know who you are, they know you belong to

25 the mob, or you have that affiliation.

DiLeonardo - Redirect/Goldberg 2135

1 Once they take this money, there is a threat behind

2 it. If they don't pay, they can get hurt. Other times, like

3 my brother-in-law, guys in my crew, I didn't have to give them

4 money. When I shylocked them and threatened them, I was

5 giving them money to earn a living. If they didn't pay it

6 back, yes, I would be in their face about it, absolutely.

7 Some kind of sanction would have to be taken. If they were

8 wiseguys, I would have dealt with it.

9 Q Ms. Kedia asked you whether Billy Cutolo, when he came

10 back into the fold, whether he aligned himself with the

11 Persico faction.

12 In your view, did Billy Cutolo really align himself

13 with the Persico faction?

14 A He came back in, and if he was really earnest about it, I

15 didn't see that, but he came back in and was, you know, like I

16 said, he came back in as a soldier. He started that way, but

17 I know he had, in my mind, he had upward mobility.

18 Q You were asked by Ms. Kedia a number of questions about

19 the murder by Lenny DeCarlo of Frank Parasole.

20 Can you just refresh the jury's recollection as to

21 what that was about, that murder?

22 A Lenny DeCarlo had put him to work in construction. His

23 uncle had asked me to do a favor, and Frank Parasole was a

24 shop steward or foreman on the job. He was and associate of

25 my brother-in-law Frank Fappiano. And Lenny, because his

DiLeonardo - Redirect/Goldberg 2136

1 uncle was Al Capone, Huck, thought when he got this job, he

2 didn't have to work, he could do the foreman's job and do

3 nothing.

4 It wasn't the case, he was put to work, saying you

5 have to work. But again, he tried to intimidate Parasole and

6 Parasole wouldn't be intimidated and that's what led to a lot

7 of bad blood. That's why Parasole was called to the club,

8 from what I understand, and Lenny made an example out of him

9 in front of 30 or 40 people.

10 Q And Lenny DeCarlo in the club intentionally shot Frank

11 Parasole in the buttocks, but didn't mean to kill him?

12 A That's my understanding, he shot him, but this is in

13 Lenny's mind, he was thinking the guy is going to go to the

14 hospital, a bee bit me, I got a bullet in my behind. But he

15 shot him to give him a warning and scare everybody in the

16 club.

17 Q Ms. Kedia asked you if Lenny DeCarlo was ever punished

18 for that unsanctioned killing. Do you remember those

19 questions?

20 A Yeah.

21 Q Did there come a time after that murder that Lenny

22 DeCarlo was arrested and sent to jail?

23 A I believe he got 19 years.

24 Q What was Frank Parasole's rank when he was killed?

25 A He was and associate.

DiLeonardo - Redirect/Goldberg 2137

1 Q What was Bill Cutolo's rank when he disappeared?

2 A He was the underboss.

3 Q Ms. Kedia asked you a number of questions about the

4 conditions at the MCC and the federal jail in Manhattan after

5 your suicide attempt and you were put in solitary confinement.

6 Do you remember the questions?

7 A Sure.

8 Q Who did you understand was responsible for putting you in

9 those conditions?

10 A Bureau of Prisons.

11 Q Is the Bureau of Prisons the same entity as the U.S.

12 Attorney's Office with which you signed a cooperation

13 agreement?

14 A No.

15 Q Were you cooperating with the Bureau of Prisons or with

16 the U.S. Attorney's Office?

17 A U.S. Attorney's Office.

18 Q When the U.S. Attorney's Office and the FBI learned of

19 your situation, did they do anything about it?

20 A What happened, when I started going back, they see my

21 condition, I was really upset about it, and they would call

22 the BOP to change my conditions, to better my conditions.

23 Matter of fact, there was one incident I went up

24 there, I was purple from the cold, and one of the agents gave

25 me his sweatshirt and went down and bought me a pair of socks

DiLeonardo - Redirect/Goldberg 2138

1 and some underwear, and they took that all away. They gave me
 2 all that stuff. When I went downstairs to go back to the
 3 cell, they flipped out. They took everything off me and we
 4 had a rough time together after that.

5 Q Is it your view that the U.S. Attorney's Office or the
 6 FBI did anything to force you to cooperate?

7 A No. I had thought that early on, I thought the screws
 8 were getting put to me. When I started going up to the office
 9 and debriefing, and I heard them on the phone in front of me
 10 yelling at them, the warden and everybody else over there,
 11 like I said, from underwear to a shower, cut my hair,
 12 anything, food. I mean, I learned at that point it wasn't --
 13 it wasn't in their interest at that point once I'm coming in
 14 to keep torturing me, but the BOP thought it was nice.

15 Q Did the U.S. Attorney's Office torture you at all?

16 A No.

17 Q Your decision to cooperate, was that a voluntary
 18 decision?

19 A Yes.

20 Q Was that a knowing decision that you made, to cooperate
 21 fully?

22 A Sure.

23 Q Did the conditions that you lived through at the MCC
 24 cause you to provide any false information to the government?

25 A No.

DiLeonardo - Redirect/Goldberg 2139

1 Q You were asked on cross-examination about some talk about
 2 possibly killing Danny Marino, remember those questions?

3 A Sure.

4 Q You testified that Danny Marino was a captain in the
 5 Gambino family?

6 A Right.

7 Q At the time you had this conversation, they were in jail
 8 -- Danny Marino was in jail?

9 A Initially on the street, it was just before he went in.
 10 There was some talk and John sent Jack D'Amico and Nicky
 11 Corrozzo to talk to Nicky about two weeks before Nicky went to
 12 jail and the talk between John, Jr. escalated.

13 Q Why is it that you believe you are not guilty of plotting
 14 to kill Danny Marino?

15 A Because we did nothing in furtherance. We never said
 16 when he comes home, we are going to do X, Y and Z. It was
 17 talk if we found out, he would be killed.

18 Q When you entered into your cooperation agreement with the
 19 U.S. Attorney's Office, were you represented by an attorney?

20 A Yeah.

21 Q Did the government make you plead guilty to any crimes
 22 you did not, in fact, commit?

23 A No, like I said, the Hydell thing I didn't understand
 24 until my lawyer explained the law to me and then I was guilty.

25 Q Your lawyer explained the law to you?

DiLeonardo - Redirect/Goldberg 2140

1 A Yeah.

2 Q There were some questions about the purchase of a ring,
 3 do you remember those questions?

4 A Sure.

5 Q Did the FBI go out and buy your wife a ring?

6 A No. When I was in MCC, I had a jeweler friend of mine
 7 that I bought a lot of jewelry from. I took a ring and told
 8 him as soon as I get my money off the street, I will pay you
 9 the money. They took everything away from me off the street,
 10 so I couldn't pay the guy, so he got stuck.

11 And later on, through the monies I got seized, the
 12 monies from the house, they took the money out of there and
 13 went and paid the jeweler.

14 Q During cross-examination, you were asked about contacts
 15 that you had with certain individuals while you were in the
 16 witness security program.

17 Do you remember those questions?

18 A Right.

19 Q Did you believe at the time that you were violating any
 20 rules contained in your cooperation agreement?

21 A No, I knew it was an act, and egregious act with the
 22 Marshal service.

23 Q What have you promised to do in your cooperation
 24 agreement?

25 A Tell the truth, testify when called for debriefings or

DiLeonardo - Redirect/Goldberg 2141

1 trials.

2 Q Have you done that in this case?

3 A Yes.

4 Q When you were confronted about those violations, the
 5 witness security program violations, in a prior proceeding,
 6 did you admit to them?

7 A Absolutely, I'm the one that told them.

8 Q Why did you tell them?

9 A Good, bad or indifferent, I tell the truth. What am I
 10 going to say?

11 Q You were asked by Ms. Kedia whether you had been
 12 sentenced yesterday, do you remember those questions?

13 A Yes.

14 Q How long have you been cooperating?

15 A November 2002.

16 Q During that time, how many times have you been debriefed
 17 by prosecutors and agents?

18 A Gotta be over 100.

19 Q To this day, do you still get debriefed from time to
 20 time?

21 A More than time to time.

22 Q And during that time, the time that you have not yet been
 23 sentenced, have you been called to testify at trials?

24 A This is my tenth.

25 Q You were asked about the sentences that were received by

DiLeonardo - Redirect/Goldberg 2142

1 other individuals who entered into cooperation agreements with
2 the government. Do you remember those questions during
3 cross-examination?
4 A Sure. Yes.
5 Q In the 5K letter that the government may write to the
6 sentencing judge, do they make a specific recommendation as to
7 what sentence?
8 A No; I don't believe so at all.
9 Q In those situations, you testified about other
10 cooperators getting a certain sentence, who decided that
11 sentence, the government or the judge?
12 A The judge.
13 Q Ms. Kedia asked you questions about how you were charged
14 with the Fred Weiss murder when you were first arrested and
15 then you later admitted to two other murders. Do you remember
16 those questions?
17 A Right.
18 Q At the time that you admitted to those two additional
19 murders with which you had not been charged, did you think you
20 would be better off in front of the judge with three murders
21 or with just one murder?
22 A You don't have to be a brain surgeon. Of course one is
23 better than three.
24 Q Yet you 'fessed up to two additional murders?
25 A I did them.

DiLeonardo - Redirect/Goldberg 2143

1 Q In fact, Ms. Kedia asked you some questions about
2 Salvatore Gravano leaving you out of one of the murders. Do
3 you remember those questions?
4 A Yeah. Matter of fact, the investigator at the time was
5 very surprised, he thought he had it all down about the Jack
6 murder. He was surprised I was in on it.
7 Q And yet you told the government about that murder as
8 well?
9 A Sure.
10 Q Your involvement in it?
11 A Right.
12 Q Why did you do that?
13 A Like I said, I was guilty of it.
14 Q Ms. Kedia asked you questions about whether you read
15 newspapers. Do you remember that question?
16 A Sure.
17 Q Whether you have checked the internet. Do you remember
18 that question?
19 A Right.
20 Q And whether you have watched things on A&E. Do you
21 remember that?
22 A Sure.
23 Q The events you have testified to in this trial, both on
24 Tuesday and today, are those things you have learned from the
25 newspapers?

DiLeonardo - Redirect/Goldberg 2144

1 A No.
2 Q From the internet?
3 A No.
4 Q From A&E?
5 A No.
6 Q Where have you learned those events from?
7 A Living them.
8 Q Lastly, Ms. Kedia asked you some questions about people
9 being big earners or good earners. Do you remember that
10 question?
11 A Sure.
12 Q I believe she asked you whether that is something that's
13 taken into consideration when someone is promoted. Do you
14 remember those questions?
15 A Sure.
16 Q If you were a good earner, does that mean you can never
17 be killed?
18 A Sometimes that's the reason why you are killed.
19 Q Can you remind the jury what kind of person, what kind of
20 earner Fred Weiss was?
21 A Fred Weiss was an associate, but he was a big earner, in
22 the garbage business.
23 Q He was killed anyway?
24 A It was thought he was going to cooperate.
25 Q In fact, that's a murder you pled guilty to?

DiLeonardo - Recross/Kedia 2145

1 A Sure.
2 Q You plotted with the Gambino family to kill Fred Weiss?
3 A Right.
4 Q Can you explain to the jury what the plan was, what you
5 were going to do with Fred Weiss's body?
6 A After -- upon killing Fred Weiss, we were going to make
7 it look like he ran away because he was arrested, he was going
8 to go on trial, and that was the concern, that he may flip
9 before the trial. And we were going to bury him. I was on
10 the team that was going to kill him and bury him. We dug
11 holes at Staten Island to bury him once we killed him.
12 Q You were going to make him disappear?
13 A Yeah.
14 Q What were you going to tell him?
15 A We were going to make it look like he ran away, on the
16 lam.
17 MR. GOLDBERG: That's all.
18 RE-CROSS-EXAMINATION
19 BY MS. KEDIA:
20 Q Mr. DiLeonardo, Fred Weiss was killed because it was
21 thought he was cooperating with the government, right?
22 A Correct.
23 Q When you say he was a big earner, he was earning for the
24 DeCalvacante family in New Jersey?
25 A No, he was partners with a fellow named Angelo Facciolo

DiLeonardo - Recross/Kedia 2146

1 and another guy Volpus. Those three were arrested together in
2 the same case. They were doing business together. He was
3 earning for everybody.

4 Q Who were the other two people?

5 A Associates of Jimmy Failla, who was a captain and ran the
6 association with the garbage companies, in Manhattan.

7 Q Fred Weiss was associated with the DeCalvacante family?

8 A Right.

9 Q And the Gambino family actually engaged in a conspiracy
10 as well to kill Fred Weiss, right?

11 A Ultimately, the DeCalvacantes were the ones that killed
12 him. We didn't kill him, the DeCalvacante, the Jersey family
13 did.

14 Q The Gambino family engaged in two separate conspiracies
15 to kill Fred Weiss?

16 A Yes. And Gravano's crew was on it to try and kill Fred
17 Weiss and Joe Watts, which I was originally in that crew, to
18 kill Fred Weiss. We had two crews in the family looking to
19 kill this guy.

20 Q And everybody, regardless of whether it was the
21 DeCalvacantes or Gambinos, was looking to kill this guy for
22 the same reason, because it was thought he was cooperating?

23 MR. GOLDBERG: Objection.

24 THE COURT: Overruled.

25 A Well, John Gotti, Sr. met with Johnny D'Amato running the

DiLeonardo - Recross/Kedia 2147

1 Jersey family at the time, and they were in concert on this
2 issue about Weiss. In other words, the Jersey family -- it
3 wasn't a separate reason why they wanted to kill him, it was
4 the same reason, because both Johns got together and discussed
5 killing him.

6 Q And the reason was that he was thought to be cooperating?

7 A Right. He was not a cooperator, but they thought that.

8 Q Did you think Billy Cutolo was cooperating?

9 A Absolutely not.

10 Q Did you think that Bill Cutolo ever cooperated?

11 A Never.

12 Q Did you think Bill Cutolo would have ever cooperated?

13 A Never.

14 Q Now, you just testified on redirect examination that the
15 things you have testified about here in this courtroom, last
16 week and today, were from personal knowledge, not things that
17 you have read or seen on A&E, right?

18 MR. GOLDBERG: Objection. Mischaracterization.

19 THE COURT: Can you rephrase it?

20 Q Mr. DiLeonardo, in fact, the person that you said was --
21 had a canary put in his mouth, that's something you read and
22 came in here and testified about?

23 A Yeah, I thought about the facts of this case.

24 Q Certainly there was a lot of background talked about as
25 well besides the facts of this case?

DiLeonardo - Recross/Kedia 2148

1 A Yeah, I learned from other individuals in the same
2 circle, yes, absolutely.

3 Q And that you read elsewhere?

4 A I didn't learn from reading it, I knew he was dead but
5 didn't know about the canary part until I read about it, but
6 he was dead and killed for those reasons.

7 Q Now, you just spoke about the person by the name of Lenny
8 DeCarlo, and he was sent to prison eventually, right?

9 A Right.

10 Q And prior to his being sent to prison, it was known in
11 the Gambino family that he killed this person Frank Parasole
12 without permission, right?

13 A Correct.

14 Q And nothing was done to him by the Gambino family as a
15 result of that, right?

16 A Right. What did happen was that Frank Fappiano was in my
17 crew and Lenny was handling this Parasole -- Frankie was
18 handling Lenny and Parasole, so when this came out, I went to
19 John, Jr., I told him listen, I'm responsible for Frankie and
20 everything that happened here, take me down, break me. I says
21 somebody has to take blame, I get the credit, I will take the
22 blame also.

23 So John told me I'm not going to punish you for your
24 brother-in-law. We are breaking him, putting him on the shelf
25 and putting him in another crew.

DiLeonardo - Recross/Kedia 2149

1 Q So that was --

2 A There was a punishment doled, but not against DeCarlo.

3 Q Nothing was personally done against DeCarlo?

4 A No.

5 Q When punishment is doled, sometimes it is just a
6 demotion, like you just talked about --

7 A Right.

8 Q -- to Frankie Fappiano, and sometimes it's someone's
9 upper promotion and they don't get it?

10 A Could be, yeah.

11 Q Now, you had spoken about these conditions you were in in
12 the MCC and that you realized eventually that it was the fault
13 of the Bureau of Prisons, not of the U.S. Attorney's Office,
14 right?

15 A Right.

16 Q But the U.S. Attorney's Office, because you were
17 cooperating, called the Bureau of Prisons about your
18 conditions, right?

19 A Sure.

20 Q And, in fact, within three weeks you were out of this
21 torture, right?

22 A No.

23 Q Within three weeks of signing your agreement you were out
24 of this torture?

25 A The agreement, as far as when I first started cooperating

DiLeonardo - Recross/Kedia 2150

1 in March, the beginning of March, that lasted from March until
2 May 22nd, they were still putting the whip to me up there.
3 Q Meaning the Bureau of Prisons, you were in bad conditions
4 in the MCC?
5 A Yeah, we were at war together.
6 Q Within three weeks of your actually making and agreement
7 with the U.S. Attorney's Office, you were out of that
8 situation, right?
9 A Yeah, there was and application to go into the program.
10 It takes X amount of time to get into the witness protection
11 program. There is some kind of application you file, and they
12 gotta -- WIT SEG has to approve you, and then they can take
13 you out of the Bureau of Prisons and put you in the WIT SEG
14 unit. They can't put you in the WIT SEG unit until you are
15 settled by the marshals, so there is a process that goes
16 between that, but did I like it? No. Did I understand it?
17 No, at the time.
18 Q Regardless, eventually you started cooperating and you
19 got taken out of that situation, right?
20 A I started in March, and May 22nd, I tell you the day it
21 came down, May 22nd, it came down.
22 Q You were asked about Frank DeCicco and someone servicing
23 his business after he was killed, right?
24 A Right.
25 Q And there was a person by the name of Joe Watts that

DiLeonardo - Recross/Kedia 2151

1 helped service his business?
2 A Right.
3 Q Joe Watts wasn't even a made member, as you stated?
4 A Couldn't be, right.
5 Q He was, in fact, and associate, but he was someone who
6 was kind of upwardly mobile?
7 A Yeah, Joe Watts was a formidable fellow.
8 Q Even though he was never actually inducted into the
9 family?
10 A That's correct.
11 Q Even though he wasn't inducted into the family, he was
12 someone who could have had the ear of the boss or the
13 underboss, right?
14 A Could have? He did.
15 Q He did?
16 A Yeah.
17 Q He could have asked, or he did ask to meet with the
18 underboss and he did ask to meet with the boss?
19 A Sure. He didn't have to ask, he was with him every day.
20 Q Despite the fact that he didn't hold the same rank?
21 A Absolutely.
22 Q That can happen when you have someone who is especially
23 powerful?
24 A Sure.
25 Q Whether it's and associate or soldier or captain?

DiLeonardo - Recross/Kedia 2152

1 A There are parameters, and the parameters are if your boss
2 wants to accept that associate and that role, that's fine.
3 But other families don't have to swallow it. Joe Watts's
4 case, a lot of families gave him that open door because of
5 John, and Joe Watts' been around for 100 years, but it doesn't
6 have to be accepted by other families.
7 Q In Joe Watts's case, you were saying it was even accepted
8 by other families?
9 A Yeah.
10 Q Everyone kind of gave and open door to him?
11 A Right.
12 Q And you were asked questions about going -- about people
13 going on the lam, do you recall that?
14 A Sure.
15 Q There are occasions, Mr. DiLeonardo, where people have
16 gone on the lam and no one knew what happened to them, right?
17 A That nobody knew what happened to them?
18 Q No one knew.
19 A I can't recall anyone.
20 Q You know that Allie Persico's uncle went on the lam for
21 eight years and no one knew what happened to him, right?
22 A I think necessary jail.
23 Q Mr. DiLeonardo, are you aware of a time when he went on
24 the lam and no one knew what happened to him?
25 A Yeah, but you are talking about at that time nobody knew?

DiLeonardo - Recross/Kedia 2153

1 Q At that time, yes.
2 A If you are asking me hypothetical, we knew he wasn't
3 dead. Nobody is killing a Persico and there is going to be no
4 bodies in the street after that.
5 Q At the time it happened, you certainly didn't know what
6 happened, right?
7 A Again, you want me to think in the hypothetical?
8 Q I'm asking you what you knew, not hypothetically.
9 A What I knew, he ran away, he was not dead. You don't
10 kill a Persico without -- or Gotti or anybody in that position
11 without having bodies all over.
12 Q Mr. DiLeonardo, in fact you just said or Gotti?
13 A Yes.
14 Q In fact, Mr. Gotti's underboss was killed and no revenge
15 was taken by John Gotti, Sr., right?
16 A John Gotti was out of the picture after that, and like I
17 said, they determined that they weren't going to do nothing, I
18 guess, like I said, we had this ongoing thing until I got
19 arrested, just about when Danny Orena came home that he may
20 get killed.
21 Q But he wasn't?
22 A I said, but you are saying it didn't exist, yes, there
23 was talk about it.
24 Q There was talk and nothing was done?
25 A Right.

DiLeonardo - Recross/Kedia 2154

1 Q No blood was shed because Frank DeCicco was blown up at
2 the behest of John Gotti, right?
3 A That's correct.
4 Q And John Gotti was certainly a powerful, vicious,
5 violent, man, right?
6 A Yeah.
7 Q Now, you testified just now about your violating
8 conditions of your witness protection program rules, right?
9 A Right.
10 Q And you testified that you didn't realize that it was
11 something that you were doing in violation of your cooperation
12 agreement, is that right?
13 A When I violated the rules?
14 Q Yes.
15 A No, the agreement in my mind was completely separate than
16 the Marshal service.
17 Q So on the one hand you had an agreement with the
18 prosecutors in your head, and on the other you had a separate
19 agreement with the Marshal service?
20 A Yes. I was told from the prosecutors from the first day
21 I was going into the program, Michael, any time you want to
22 sign out -- because I asked this question, you can sign out,
23 we don't care if you are in the program or out of the program.
24 So basing that in my head, I knew it would have --
25 would not have and impact on my agreement or their thinking

DiLeonardo - Recross/Kedia 2155

1 because I knew at that point I could sign out any time I
2 wanted to.
3 Q Instead of signing out, you violated your agreement,
4 right?
5 A Yes.
6 Q And you testified that you admitted to that because you
7 know, you were asked and you weren't going to lie?
8 A Right.
9 Q You didn't admit that to the prosecution until you were
10 actually called on it in court by a defense lawyer, right?
11 A Like I said, I had a separation between the two. I never
12 even really thought it would affect anything on that end. I
13 had some certain situations with the Marshal service, that I
14 thought they put me in a bad spot where they first put me.
15 Since they didn't care at that time, I took it upon myself,
16 the people I missed, I met.
17 Q And you certainly didn't care about violating your
18 agreement with the Marshal service?
19 A Like I said, it didn't matter at that point.
20 Q Now, you were asked questions about your involvement in
21 this murder of this Jack fellow?
22 A Right.
23 Q Sammy Gravano was also involved?
24 A Yes.
25 Q You just testified that despite the fact that Sammy

DiLeonardo - Recross/Kedia 2156

1 Gravano had never told the prosecution about it, you went in
2 and told them?
3 A Correct.
4 Q Because you were going to be truthful?
5 A Correct.
6 Q Sammy Gravano had been cooperating for how many years at
7 that time?
8 A I believe he started cooperating November of '91.
9 Q You told the prosecution about it in November 2003?
10 A November 2003.
11 Q So 12 years later?
12 A Yeah.
13 Q And 12 years later, the investigator was still surprised
14 to learn about who was involved in that murder?
15 A No.
16 Q About your involvement in that murder?
17 A That's correct.
18 Q And when you say the investigator, who are we talking
19 about?
20 A Fellow passed away, Kenny McCabe.
21 Q He is someone who was an investigator for the U.S.
22 Attorney's Office?
23 A Correct.
24 Q And investigated organized crime for his whole career,
25 right?

DiLeonardo - Recross/Kedia 2157

1 A He was the best.
2 Q And knew everything about organized crime?
3 MR. GOLDBERG: Your Honor, I object. Beyond the
4 scope.
5 THE COURT: Sustained.
6 Q Well, Mr. DiLeonardo, certainly before you told the
7 government about your involvement in Jack's murder, neither
8 the FBI knew about it, nor the U.S. Attorney's Office, nor any
9 investigator, is that right?
10 MR. GOLDBERG: Objection and answered a few times.
11 THE COURT: You can ask it again.
12 You can answer the question.
13 A Yes, that's right.
14 Q Now, Mr. DiLeonardo, you testified about this question
15 that you were asked about whether you ever had to use violence
16 on a person, right, when they didn't pay loan-sharking money
17 back?
18 A Yeah.
19 Q You said that, in fact, people did pay you because they
20 understood the threat of violence was there?
21 A That's correct.
22 Q But in fact, Mr. DiLeonardo, what you testified to is
23 that you, personally, you never raised your hands to wiseguys,
24 is that right?
25 A To wiseguys? I never hit a wiseguy.

DiLeonardo - Recross/Kedia 2158

1 Q In fact, wiseguys knew what was going to happen to them,
2 they would be verbally admonished by you if there was a
3 problem?
4 A Things could be taken away from them. They could have
5 some kind of industry or business, it would be.
6 Q So while this threat of violence existed, people knew how
7 you handled things, people who you dealt with?
8 A Right, I was pretty soft.
9 Q And certainly people who generally dealt with other
10 people knew how they handled things, right?
11 A Everybody is different, like I said.
12 Q And you knew about the people you dealt with, whether
13 they would be especially angry or whether they would handle
14 things in a very calm way, right?
15 A I used to lend guys shylock money and they knew I wasn't
16 going to do nothing, they would go across the street and be on
17 the lam.
18 Q Mr. DiLeonardo, you just testified about a position that
19 you believed that Mr. DeRoss held as underboss?
20 A Right.
21 Q Mr. Cutolo, when you knew him, is your belief he held the
22 position of official underboss?
23 A Yes.
24 Q Not acting underboss?
25 A No.

DiLeonardo - Recross/Kedia 2159

1 Q And Mr. DiLeonardo, you were asked about this place 92nd
2 and Shore Road, and you're going out to meet people there,
3 right?
4 A Sure.
5 Q You were asked why you had these meetings even when you
6 knew you were being surveilled?
7 A Right.
8 Q Had you ever seen people surveil you at that location?
9 A Yeah. Not on the appointments.
10 Q Meaning not when you were actually meeting with people?
11 A Right.
12 Q Just when you walked out of the building?
13 A Right.
14 Q Who was surveilling you during that period of time;
15 either the state task force or the FBI, Federal Bureau of
16 Prisons and the state task force.
17 A Yes.
18 Q Is this and organized crime task force?
19 MR. GOLDBERG: I think he said prisons, Federal
20 Bureau of Prisons.
21 THE COURT: What was the entity?
22 Q The Federal Bureau of Investigation, right?
23 A Correct.
24 Q And the organized crime task force?
25 A Sure.

DiLeonardo - Recross/Kedia 2160

1 Q How many occasions had you seen them surveilling you at
2 this location?
3 A Many, many times.
4 Q When you met with various people, you just walked up and
5 down the street with them?
6 A Sometimes, like I said, there was a way you could walk
7 down in front of my apartment building and you could walk down
8 by Shore Road because of the Belt Parkway and then a little
9 strip, like a little park.
10 Q Like a path?
11 A Right.
12 Q Sometimes people go jogging on it?
13 A All the time, bicycling, jogging.
14 Q It's like a nice park area open to the public?
15 A Yes, down below the street, not at street level.
16 Q Meaning you could go down below and jog along the path?
17 A Right.
18 Q A lot of people would be out jogging and walking along
19 the path?
20 A Right.
21 Q You sometimes took a walk along this path?
22 A Right.
23 MS. KEDIA: Thank you, nothing further.
24 RE-CROSS-EXAMINATION
25 BY MR. LaRUSSO:

DiLeonardo - Recross/LaRusso 2161

1 Q Mr. DiLeonardo, I believe Mr. Goldberg was asking you
2 about the Uva murder, and your response to one of his
3 questions was there are in that case the need for more than
4 one or two persons, because it was and outdoor thing?
5 A Right.
6 Q What did you mean by that?
7 A It was out in the street, with traffic, people around.
8 Q So in other words, where a murder is to take place in a
9 public area where a lot of people would be outdoors, there
10 would be more people involved than one or two?
11 A Yes.
12 Q You described the Castellano murder as one incident and
13 the Uva murder as another?
14 A Yeah.
15 Q Would you consider a beach area in the middle of July on
16 a hot day and outdoor area?
17 A Yes, I would; get sunscreen.
18 Q You also said that there was and egregious act by the
19 Marshal service because they put you together with Sally Pots
20 and Joe Campanella. Do you remember that testimony?
21 THE COURT: Is there and objection?
22 MR. GOLDBERG: Yes, your Honor.
23 A Restate it.
24 Q Do you remember using the words "egregious act"?
25 A Yes.

<p style="text-align: center;">DiLeonardo - Recross/LaRusso 2162</p> <p>1 Q In what context were you using that phrase?</p> <p>2 A I guess by putting me and Sally together?</p> <p>3 Q Yes.</p> <p>4 A I thought we should not have been together.</p> <p>5 Q You should have been separated?</p> <p>6 A Yeah.</p> <p>7 Q Because he was cooperating, you were cooperating?</p> <p>8 A Right.</p> <p>9 MR. GOLDBERG: Objection. I didn't ask about this.</p> <p>10 MR. LaRUSSO: He did, he talked about the Marshal</p> <p>11 service.</p> <p>12 THE COURT: Come on up.</p> <p>13 (Continued on the next page.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Sidebar 2164</p> <p>1 MR. GOLDBERG: No.</p> <p>2 I want to say I think we used the word "egregious"</p> <p>3 was referring to a placement somewhere in the country.</p> <p>4 MR. LaRUSSO: I will ask him. If he doesn't know, I</p> <p>5 will move on.</p> <p>6 THE COURT: See, that was my hesitation here.</p> <p>7 Because when he said he considered him to have and egregious</p> <p>8 act, he was talking about the Marshal service and the witness</p> <p>9 protection program, not anything with MDC.</p> <p>10 MR. LaRUSSO: If he doesn't remember, I will move</p> <p>11 on.</p> <p>12 THE COURT: He is going to remember and he is going</p> <p>13 to say the egregious act dealt with me and the witness</p> <p>14 protection program and that's going to start getting into the</p> <p>15 security concerns.</p> <p>16 If you want to get your notes, let me know what it</p> <p>17 is specifically about Sally Pots.</p> <p>18 MS. KEDIA: You are limiting it to when he was in</p> <p>19 jail?</p> <p>20 MR. LaRUSSO: In jail. When he is at the MDC.</p> <p>21 THE COURT: Everybody's got to show a little</p> <p>22 consideration for Stephanie before she passes out. Mr.</p> <p>23 DiLeonardo has a hint of an accent and he smushes his words</p> <p>24 together.</p> <p>25 (Sidebar concluded.)(Continued on the next page.)</p>
<p style="text-align: center;">Sidebar 2163</p> <p>1 (Sidebar.)</p> <p>2 THE COURT: The government asked and answered this</p> <p>3 themselves. Mr. Goldberg was talking about a different</p> <p>4 situation, not the one you are referring to in the MCC.</p> <p>5 MR. LaRUSSO: What happens, Judge, it's my</p> <p>6 understanding he was bringing out the fact that being together</p> <p>7 with another informant was an egregious act of the Marshal</p> <p>8 service violating their own regulations about informants being</p> <p>9 together.</p> <p>10 THE COURT: I don't think he brought that out.</p> <p>11 MR. GOLDBERG: I asked two questions. I asked</p> <p>12 questions about the MCC and who was responsible for those</p> <p>13 conditions. And I asked about Wit Seg violations and whether</p> <p>14 he believed that was in violation.</p> <p>15 MR. LaRUSSO: I had the note Sally there as well. I</p> <p>16 don't have the transcript with me, but I will just ask him his</p> <p>17 understanding, what he meant by it. I won't put it in</p> <p>18 context.</p> <p>19 THE COURT: And the other thing is I don't want to</p> <p>20 get involved with this witness protection program and security</p> <p>21 issues.</p> <p>22 We are just about done now?</p> <p>23 MR. LaRUSSO: I have one or two more questions to</p> <p>24 ask. It will be short.</p> <p>25 THE COURT: You won't have redirect?</p>	<p style="text-align: center;">DiLeonardo - Recross/LaRusso 2165</p> <p>1 (In open court.)</p> <p>2 BY MR. LaRUSSO: (Cont'd)</p> <p>3 Q The question will be at the time you were at the MCC,</p> <p>4 what did you mean when you used the phrase "egregious act"?</p> <p>5 MR. GOLDBERG: Objection.</p> <p>6 THE COURT: Sustained.</p> <p>7 Did you use the term "egregious act" referring to</p> <p>8 time spent at the MCC?</p> <p>9 THE WITNESS: I may have.</p> <p>10 A If you have it, read it back to me.</p> <p>11 THE COURT: We don't have it.</p> <p>12 THE WITNESS: I said a lot of things the last couple</p> <p>13 of days.</p> <p>14 MR. LaRUSSO: I will move on, your Honor.</p> <p>15 Q You testified on redirect about Lenny DeCarlo and Frank</p> <p>16 Parasole murder, you testified on a number of occasions about</p> <p>17 it. You also mentioned the fact in regards to talking about</p> <p>18 that murder, you would never talk to Lenny DeCarlo, is that</p> <p>19 correct?</p> <p>20 A I was very angry with Lenny after that.</p> <p>21 Q What was Lenny's -- what was his rank, position?</p> <p>22 A He was Carbanaro's nephew and an associate.</p> <p>23 Q You testified that after you left the witness protection</p> <p>24 program, I believe you were actually asked the question who</p> <p>25 supports you right now?</p>

<p style="text-align: center;">DiLeonardo - Recross/LaRusso 2166</p> <p>1 A Right.</p> <p>2 Q Your answer was working myself with the FBI.</p> <p>3 A Right. I haven't come --</p> <p>4 MR. GOLDBERG: Beyond the scope. I didn't address</p> <p>5 that at all.</p> <p>6 THE COURT: Sustained.</p> <p>7 MR. LaRUSSO: No further questions.</p> <p>8 THE COURT: Anything else?</p> <p>9 MR. GOLDBERG: No, your Honor.</p> <p>10 THE COURT: You can step down. Before you do so,</p> <p>11 let me give the jury their well-deserved break and we will</p> <p>12 resume in 15 minutes.</p> <p>13 (The jury leaves the courtroom.)</p> <p>14 THE COURT: Who is the government's next witness?</p> <p>15 MS. MAYER: Special Agent John Sheehan.</p> <p>16 THE COURT: Any documents I should be looking at for</p> <p>17 Mr. Sheehan?</p> <p>18 MS. MAYER: I don't think so, Judge.</p> <p>19 (The jury enters the courtroom.)</p> <p>20 MS. MAYER: The government calls Special Agent John</p> <p>21 Sheehan.</p> <p>22 JOHN SHEEHAN,</p> <p>23 having been first duly sworn was</p> <p>24 examined and testified as follows:</p> <p>25 THE CLERK: Kindly step up, state and spell your</p>	<p style="text-align: center;">Sheehan - Direct/Maher 2168</p> <p>1 with on June 1, 1999, in the courtroom today?</p> <p>2 A Yes, I do.</p> <p>3 Q Can you point him out for the jury?</p> <p>4 A Wearing a blue sweater.</p> <p>5 MS. MAYER: Let the record indicate the witness</p> <p>6 identified the defendant.</p> <p>7 THE COURT: Yes.</p> <p>8 Q You said you interviewed Alphonse Persico, where did you</p> <p>9 go to interview him?</p> <p>10 A Romantique Limousine in Brooklyn.</p> <p>11 Q Where in Brooklyn?</p> <p>12 A On 11th Avenue.</p> <p>13 Q What time of day did you go there?</p> <p>14 A Late morning.</p> <p>15 Q What connection did Alphonse Persico have to Romantique</p> <p>16 Limousine, as far as you knew?</p> <p>17 A That was one of the places we knew that he was to be if</p> <p>18 we were looking for him.</p> <p>19 Q When you arrived at Romantique Limousine -- let me ask</p> <p>20 you: Was this interview prearranged?</p> <p>21 A No, it was not.</p> <p>22 Q When you arrived at Romantique Limousine, what did you</p> <p>23 do?</p> <p>24 A Myself and Special Agent Kevin Lyons went inside and</p> <p>25 asked to speak to Mr. Persico.</p>
<p style="text-align: center;">Sheehan - Direct/Maher 2167</p> <p>1 name for the record.</p> <p>2 THE WITNESS: John Sheehan, S-H-E-E-H-A-N.</p> <p>3 DIRECT EXAMINATION</p> <p>4 BY MS. MAYER:</p> <p>5 Q Where do you work?</p> <p>6 A The FBI.</p> <p>7 Q What's your job?</p> <p>8 A Special Agent.</p> <p>9 Q How long have you been and FBI Special Agent?</p> <p>10 A 11 years.</p> <p>11 Q What squad are you currently assigned to?</p> <p>12 A C 27.</p> <p>13 Q What squad is that?</p> <p>14 A Organized crime on Long Island.</p> <p>15 Q Directing your attention to June of 1999, what squad were</p> <p>16 you assigned to?</p> <p>17 A C 38.</p> <p>18 Q What squad was that?</p> <p>19 A Colombo family organized crime.</p> <p>20 Q Directing your attention to June 1, 1999, were you</p> <p>21 working that day?</p> <p>22 A Yes, I was.</p> <p>23 Q What did you do on June 1, 1999?</p> <p>24 A Interviewed Alphonse Persico.</p> <p>25 Q Do you see Alphonse Persico, the person that you spoke</p>	<p style="text-align: center;">Sheehan - Cross/Kedia 2169</p> <p>1 Q What happened?</p> <p>2 A We were asked to wait outside.</p> <p>3 Q Did you wait outside?</p> <p>4 A Yes, we did, on the sidewalk.</p> <p>5 Q What happened?</p> <p>6 A A few minutes later Mr. Persico came outside.</p> <p>7 Q What did you do when Mr. Persico came outside?</p> <p>8 A We identified ourselves as FBI agents and told him we</p> <p>9 were there to speak to him about the disappearance of William</p> <p>10 Cutolo on May 26th.</p> <p>11 Q What, if anything, did Alphonse Persico say to you once</p> <p>12 you informed him that you were there to talk about the</p> <p>13 disappearance of William Cutolo?</p> <p>14 A He said it was a long holiday weekend, that he was not</p> <p>15 aware that Cutolo was missing and that he did not know where</p> <p>16 Cutolo was.</p> <p>17 Q What was Alphonse Persico's demeanor when he told you</p> <p>18 that he didn't know that William Cutolo was missing?</p> <p>19 A It was casual, nonchalant.</p> <p>20 MS. MAYER: Nothing further, Judge.</p> <p>21 CROSS-EXAMINATION</p> <p>22 BY MS. KEDIA:</p> <p>23 Q Good afternoon, Agent Sheehan.</p> <p>24 A Afternoon.</p> <p>25 Q At the time of this interview with Mr. Persico, June 1,</p>

Sheehan - Cross/Kedia 2170

1 1999, you said you were actually on the Colombo squad, right?

2 A Yes, I was.

3 Q At this time, from May 26th let's say onwards, you were

4 investigating the disappearance of William Cutolo, right?

5 A Yes, I was.

6 Q When is it that you learned that William Cutolo was

7 missing?

8 A I believe it was later that week, either Thursday or

9 Friday.

10 Q Later that week, meaning the end of May, the 27th or the

11 28th of May?

12 A Yes.

13 Q 1999?

14 A That's right.

15 Q And on June 1st, Agent Sheehan, are you aware that agents

16 were still trying to find Billy Cutolo at home?

17 MS. MAYER: Objection.

18 THE COURT: Overruled.

19 A No, I was not aware of that.

20 Q Were you speaking to any other surveillance teams who had

21 been surveilling Billy Cutolo?

22 A No, I was not.

23 Q What surveillance team were you a part of?

24 MS. MAHER: Objection.

25 A I was not a part of --

Sheehan - Cross/Kedia 2171

1 THE COURT: Sustained.

2 Q Were you part of a surveillance team?

3 A I was not part of a surveillance team.

4 Q How is it that you came to be involved in the

5 investigation into Billy Cutolo's disappearance?

6 A Kevin Lyons asked me to go with him to interview Mr.

7 Persico.

8 Q And Kevin Lyons was another FBI agent?

9 A That's correct.

10 Q He was someone who had been investigating Mr. Persico?

11 A Yes.

12 Q Had he been investigating Mr. Cutolo?

13 A Not that I'm aware of.

14 Q You said you became aware that Mr. Cutolo was

15 disappearing approximately either the 27th or the 28th of May?

16 A That's correct.

17 Q So meaning just a few days prior to your going to this

18 Romantique Limousine place, right?

19 A Yes.

20 Q Did you go interview people on the 27th or the 28th of

21 May in connection with Mr. Cutolo's disappearance?

22 A No.

23 Q The 29th of May?

24 A No.

25 Q Any time prior to the 1st of June of 1999?

Sheehan - Cross/Kedia 2172

1 A No.

2 Q Certainly not on the 26th of May of 1999, right?

3 A Correct.

4 Q Now, had you surveilled Mr. Persico prior to this?

5 MS. MAYER: Objection.

6 THE COURT: Sustained.

7 Q Well, when you -- you knew who Mr. Persico was?

8 MS. MAYER: Objection, Judge. Can we approach?

9 THE COURT: Sure, come on up.

10 (Continued on the next page.)

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Sidebar 2173

1 (Sidebar.)

2 THE COURT: Your objection is it wasn't brought out,

3 it's beyond the scope?

4 MS. MAYER: It's beyond the scope. I understand he

5 is going to try to do this because he was on the Colombo

6 squad, but he was brought in for just that testimony.

7 MS. KEDIA: This agent will testify Mr. Persico

8 stepped out of Romantique Limousine. I wanted to know how he

9 knew that was him.

10 THE COURT: I'm sure you want to ask more than that.

11 There is no issue on identification. What difference does it

12 make?

13 MS. KEDIA: If the answer is he had surveilled him

14 before, I would like to know that. He may not have. I don't

15 think he had.

16 THE COURT: What difference does it make if he

17 surveilled him or didn't?

18 MS. KEDIA: If he surveilled him from May 26th to

19 June 1, 1999, it's quite relevant. If it's prior to that,

20 then it doesn't make a difference to my examination. I can

21 limit it. I can directly ask that question, if during this

22 period of time, that week, from the time Billy Cutolo

23 disappeared to a few days later to the time of this interview,

24 if he had surveilled him during those few days.

25 MS. MAYER: It's still beyond the scope. As long as

<p style="text-align: center;">Sidebar 2174</p> <p>1 that doesn't open the door, I don't object to a question from 2 May 26th to June 1st if he personally, no other witnesses. 3 THE COURT: Yeah. 4 (Sidebar concluded.) 5 (Continued on the next page.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">Sheehan - Cross/Kedia 2176</p> <p>1 A Late morning. 2 Q Can you be any more specific? 3 A Between 10:00 and 11:00. 4 Q Who else did you see that day? 5 A That day, when that day? 6 Q Let's start with when you went to Romantique Limousine. 7 A I don't recall. I don't know who we spoke to when we 8 went inside and asked to see Mr. Persico. 9 Q You weren't able to identify the person? 10 A No. 11 Q Someone was working inside the location? 12 A As far as I know. 13 Q And you identified yourself to that person? 14 A Yes. 15 Q And asked if Mr. Persico was there? 16 A Yes. 17 Q And certainly, he was there and made it known that he was 18 there, right? 19 A Yes. 20 Q And you interviewed him in front of that location, right? 21 A Yes. 22 Q Now, was this the only occasion on which you spoke to Mr. 23 Persico about Billy Cutolo's disappearance? 24 A Yes. 25 Q And you testified that Mr. Persico said it was a long</p>
<p style="text-align: center;">Sheehan - Cross/Kedia 2175</p> <p>1 (In open court.) 2 BY MS. KEDIA: (Cont'd) 3 Q Agent Sheehan, between May 26, 1999 and June 1, 1999, had 4 you engaged in any surveillance of Mr. Persico? 5 A No. 6 Q Now, on June 1st, you and Agent Lyons arrived at the 7 Romantique Limousine location? 8 A Yes. 9 Q Is that a location you had been to before? 10 A Yes. 11 Q In fact, you testified on direct that it's one of the 12 places you knew where to look for him, is that right? 13 A That's correct. 14 Q Had you spoken to Mr. Persico at this location before? 15 A No. 16 Q Had you gone to this location in order to find him 17 before? 18 A We had seen his car previously there several times. 19 Q When you say we, you are talking about yourself? 20 A Yes, that's correct. 21 Q How many times would you say, approximately? 22 MS. MAYER: Objection. 23 THE COURT: Sustained. 24 Q Agent Sheehan, when you went there on June 1st, what time 25 would you say it was?</p>	<p style="text-align: center;">Sheehan - Cross/Kedia 2177</p> <p>1 weekend, that weekend between May 26, 1999 and June 1, 1999, 2 that was Memorial weekend, right? 3 A Yes. 4 Q June 1st was a Tuesday, the Tuesday after Memorial Day, 5 is that right? 6 A Yes. 7 Q And he said he didn't know where Mr. Cutolo was that day, 8 right? 9 A Yes. 10 Q He didn't know that Mr. Cutolo was even missing and 11 didn't know where he was, right? 12 A That's correct. 13 Q Well, had you ever spoken to Mr. Persico before? 14 A No. 15 Q What did you expect him to say? 16 MS. MAYER: Objection. 17 THE COURT: Sustained. 18 Q Agent Sheehan, you went there obviously with a purpose, 19 right? 20 A Yes. 21 Q And the purpose is to engage in and interview, right? 22 A Yes. 23 Q And you knew Mr. Persico was someone who you had been 24 surveilling, right? 25 MS. MAYER: Objection.</p>

Sheehan - Cross/Kedia 2178

1 THE COURT: Sustained.

2 Q Certainly, Mr. Persico -- Agent Lyons, you testified, the

3 person who asked you to go with him was somebody who was

4 investigating Mr. Persico, right?

5 A Yes.

6 Q Did you expect Mr. Persico to tell you where Mr. Cutolo

7 was?

8 MS. MAYER: Objection.

9 THE COURT: Sustained.

10 MS. KEDIA: I have nothing further.

11 THE COURT: Mr. LaRusso, any questions?

12 MR. LaRUSSO: No, your Honor.

13 THE COURT: Nothing further?

14 MS. MAYER: No, Judge.

15 THE COURT: You may step down.

16 The government's next witness.

17 MS. MAYER: The government calls Special Agent Amy

18 Loughney-Bytof.

19 **AMY LOUGHNEY-BYTOF,**

20 having been first duly sworn, was

21 examined and testified as follows:

22 THE CLERK: Take a seat. Please state and spell

23 your name for the record.

24 THE WITNESS: Amy Loughney-Bytof, A.M.Y.,

25 L.O.U.G.H.N.E.Y., hyphen, B.Y.T.O.F.

Loughney-Bytof - Direct/Maher 2179

1 DIRECT EXAMINATION

2 BY MS. MAYER:

3 Q Good afternoon, Special Agent Loughney.

4 Where do you work?

5 A I work with the Federal Bureau of Investigation.

6 Q What's your job title?

7 A Special Agent.

8 Q How long have you been a Special Agent with the FBI?

9 A A little over nine years.

10 Q What squad are you currently assigned to?

11 A Currently I'm on C 33, which is a health care fraud

12 squad.

13 Q In June of 1999, what were your duties?

14 A I was assigned to a surveillance squad.

15 Q Directing your attention to June 28, 1999, were you

16 working that day?

17 A Yes, I was.

18 Q What was your assignment?

19 A We were -- I was assigned to surveil 371 Shore Drive in

20 Merrick.

21 Q Were you conducting surveillance on a particular

22 individual?

23 A Yes.

24 Q Who was that?

25 A Ralph Lombardo.

Loughney-Bytof - Direct/Maher 2180

1 Q You said "we." Were you conducting this surveillance

2 alone or with other agents?

3 A With other agents.

4 Q Approximately what time did your surveillance begin that

5 day?

6 A At approximately 6:40 a.m.

7 Q Approximately what time did it end?

8 A Approximately 1:22 p.m.

9 Q Directing your attention to approximately 11:05 a.m. June

10 28, 1999, what did you observe?

11 A I observed Ralph Lombardo exiting a vehicle located in

12 the vicinity of Seaview Avenue and Remsen Avenue in the

13 Canarsie area of Brooklyn.

14 Q Can you tell the jury what was at that location, Seaview

15 Avenue in Canarsie?

16 A Canarsie Beach Park.

17 Q What did you observe after you saw Ralph Lombardo get out

18 of this vehicle, where did he go?

19 A He met up with another individual, male.

20 Q Do you see the person that Ralph Lombardo met with on

21 June 28, 1999 in courtroom today?

22 A Yes.

23 Q Can you identify him for the jury?

24 A Yes, the gentleman at the defendant's table with the blue

25 sweater, argyle.

Loughney-Bytof - Direct/Maher 2181

1 MS. MAYER: Judge, can the record reflect the

2 witness identified defendant Persico?

3 THE COURT: Yes.

4 Q You said you saw Ralph Lombardo meet Mr. Persico. What,

5 if anything, did you observe them do?

6 A They were walking and talking.

7 Q Could you hear what they were saying?

8 A No, I could not.

9 Q Approximately how long did Ralph Lombardo meet with Mr.

10 Persico that day in the area of Canarsie Beach Park?

11 A Approximately 25 minutes.

12 Q Did your team make a recording in connection with your

13 surveillance that day, a video recording?

14 A Yes.

15 Q Did you have the video camera or was it another agent on

16 your team?

17 A Another agent on my team.

18 Q Have you reviewed the video before you came to court

19 today?

20 A Yes, I did.

21 MS. MAYER: Judge, may I approach the witness?

22 THE COURT: Yes.

23 Q I'm showing you what's been marked Government Exhibit 88

24 for identification. Do you recognize it?

25 A Yes.

Loughney-Bytof - Direct/Maher 2182

1 Q How do you recognize it? Are your initials on it?

2 A Yes.

3 Q Have you reviewed it prior to coming in here today?

4 A Yes, I did.

5 Q What is it, what's on this disk here?

6 A This is the recording that was done at the time of the

7 surveillance.

8 Q On June 28, 1999?

9 A On June 28, 1999, correct.

10 Q Is it a fair and accurate depiction of some of your

11 observations that day?

12 A Yes.

13 MS. MAYER: Judge, I offer Government Exhibit 88.

14 MS. KEDIA: No objection.

15 MR. LaRUSSO: No objection.

16 THE COURT: Received in evidence.

17 (Government Exhibit 88 received in evidence.)

18 MS. MAYER: May I publish it to the jury?

19 THE COURT: Yes. Is it about 20 minutes?

20 MS. MAYER: It's only a couple of minutes.

21 Q While this is loading up, was the video running the

22 entire time?

23 A No, it was not.

24 Q Approximately how long was the video?

25 A I think -- I would have to check the notes. I think in

Loughney-Bytof - Direct/Maher 2183

1 total about three minutes total; two, three minutes.

2 Q Is there anything that would refresh your recollection?

3 A There was a surveillance log done, book.

4 Q We will get to that in a second.

5 (Video played.)

6 Q As you look at your screen, are those the two individuals

7 you observed on that day, June 28, 1999, in the area of

8 Canarsie Beach Park?

9 A Yes.

10 MS. MAYER: I think it's a problem with my computer,

11 it's not going very quickly.

12 Q Can you tell us those two individuals on the left, who is

13 that?

14 A Alphonse Persico.

15 Q As they come around the tree, the person on the right as

16 they come by the tree you will see.

17 A Ralph Lombardo.

18 (Video stopped.)

19 Q You said you weren't sure how long the video was. Would

20 looking at the log refresh your recollection?

21 A Yes.

22 Q I'm showing you what's been marked AL-3. Don't read it

23 out loud.

24 A So a total of three minutes.

25 Q That's how long the video was?

Loughney-Bytof - Direct/Maher 2184

1 A Yes.

2 Q After you observed Mr. Persico meet with Mr. Lombardo,

3 did you make any other observations of Alphonse Persico that

4 day?

5 A Yes.

6 Q What did you see?

7 A I saw him enter a black Nissan and depart the area.

8 Q Did you follow him?

9 A Yes.

10 Q What did you see?

11 A I witnessed him doing a series of U-turns and

12 block-squaring maneuvers after he had departed.

13 Q When you say block-squaring maneuvers, can you explain

14 what that is to the jury?

15 A Sure. I have seen before that if someone wants to either

16 identify surveillance or try to get rid of surveillance, they

17 will do some block-squaring maneuvers, literally making a

18 right-hand turn, right-hand turn like to square the block or

19 to do a U-turn, something like that.

20 Q And in response to those maneuvers, the U-turns and the

21 block-squaring maneuvers, what, if anything, do you do with

22 the surveillance?

23 A Well, the surveillance was terminated.

24 MS. MAYER: Judge, if I can just have a moment.

25 (Pause)

Loughney-Bytof - Cross/Kedia 2185

1 MS. MAYER: Nothing further.

2 CROSS-EXAMINATION

3 BY MS. KEDIA:

4 Q Good afternoon, Agent Loughney.

5 A Good afternoon.

6 Q Agent, you said you started this surveillance following a

7 person by the name of Ralph Lombardo, right?

8 A Correct.

9 Q In fact, you started at the home of Ralph Lombardo?

10 A Yes.

11 Q Who was Ralph Lombardo?

12 A I don't know. He was, you know, the target of the

13 surveillance, but I'm not familiar with it.

14 Q So meaning when you were assigned to the team, you were

15 just told to go to this location, is that right?

16 A Right.

17 Q And you weren't specifically informed as to who it was

18 you were surveilling or why it was you were surveilling that

19 person?

20 A Well, right. I mean, I knew it was and organized crime,

21 you know, case that was going on, but I wasn't on the

22 substantive squad.

23 Q When you say you know it was and organized crime case,

24 were you and organized crime agent?

25 A No, I was not.

Loughney-Bytof - Cross/Kedia 2186

1 Q So you were randomly picked from a surveillance team, is
2 that right?
3 MS. MAYER: Objection.
4 THE COURT: Overruled.
5 A I was assigned to a surveillance squad, right.
6 Q Now, the day that you were following Ralph Lombardo, you
7 followed him from his car, you went to a different location
8 and then eventually wound up at Canarsie Park, right?
9 A Correct.
10 Q I'm going to show you what I'm marking as Defendant
11 Persico AO, AP, AQ and AR.
12 MS. KEDIA: Your Honor should have a copy of these.
13 Q Would you take a look at those?
14 A (Complying)
15 (Continued on the next page.)
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25

Loughney-Bytof - Cross/Ms. Kedia 2188

1 A. That I think that is what was in the video. I can't
2 say if this was the actual bat stop though.
3 Q. So in the middle of the park there is a baseball
4 diamond?
5 A. Oh, I don't know. I just remember looking at the
6 video, and it appeared that they were walking by a bat
7 stop.
8 Q. Well certainly if you look at these pictures, and
9 I'll put them up one by one, it is a pretty open park.
10 Right?
11 A. Yes.
12 Q. You can pretty much see anything that is going on in
13 the park from the street or as you walk into the park.
14 Right?
15 A. From that picture yes, it's pretty open.
16 MS. KEDIA: Your Honor, I'll just hand the rest,
17 if I may, to the jury. And they can look at them at their
18 leisure.
19 THE COURT: Yes.
20 (The exhibits referred to were handed to the
21 jury.)
22 BY MS. KEDIA:
23 Q. Now agent, that day that you were conducting
24 surveillance, when you first saw Mr. Lombardo, you
25 identified him at that point right you followed him from

Loughney-Bytof - Cross/Ms. Kedia 2187

1 CROSS-EXAMINATION (Continued)
2 BY MS. KEDIA:
3 Q. Do you recognize the area depicted in those
4 photographs, agent?
5 A. I do.
6 Q. And what do you recognize it to be?
7 A. Canarsie Beach Park.
8 Q. The park that you were conducting surveillance at
9 that day. Right?
10 A. Yes.
11 MS. KEDIA: I offer Defendant's Persico AO
12 through AR.
13 MS. MAYER: No objection.
14 THE COURT: Received in evidence.
15 (Defense Persico Exhibits AO through AR in
16 evidence.)
17 BY MS. KEDIA:
18 Q. Now agent, this is -- if I could just have them back
19 for a moment. I'll put them up on the screen.
20 Now in looking at this photograph for example,
21 can you tell us where you saw Mr. Persico and Mr. Lombardo
22 walking that day a June 28, 1999?
23 A. I could -- I really in one part of the video they're
24 back by a bat stop, a baseball bat stop.
25 Q. A baseball bat stop?

Loughney-Bytof - Cross/Ms. Kedia 2189

1 his home?
2 A. Well somebody, right, somebody would have identified
3 him.
4 Q. And you saw him then start speaking to another
5 individual. Right?
6 A. Correct.
7 Q. At the time that he started speaking to this other
8 individual, you actually were unable to identify
9 Mr. Persico. Is that right?
10 A. I did not know who he was.
11 Q. Meaning you had never seen Mr. Persico before?
12 A. Not to my knowledge, no.
13 Q. And he was not someone who was known to you?
14 A. No.
15 Q. And eventually at some later time you were able to
16 identify that it was Mr. Persico who was in that video?
17 A. Well somebody on the scene identified him as
18 Mr. Persico.
19 Q. One of the agents who eventually was arriving. Is
20 that right?
21 A. Correct.
22 Q. Now you testified about a vehicle that Mr. Persico
23 entered, I believe you said a black Nissan?
24 A. I believe so, yes.
25 Q. Do you know who that vehicle was registered to?

Loughney-Bytof - Cross/Ms. Kedia

2190

1 A. I do not.
 2 Q. Did you conduct any kind of vehicle registration
 3 search, surveillance?
 4 A. I don't think I did. I don't know if anybody else on
 5 the scene did.
 6 Q. Is that something that you do when someone that your
 7 surveilling enters a vehicle?
 8 A. Yes.
 9 Q. On this particular occasion, you don't know if it was
 10 done at all?
 11 A. I'm not sure, but it is something that I guess
 12 something that would be done.
 13 Q. And the vehicle that Mr. Persico entered on that day,
 14 the license plate number was XZ 736 XS, New York plate.
 15 Is that right?
 16 A. I don't know off the top of my head. I would have to
 17 look at it.
 18 Q. Let me show you what is marked as 3500 AL-1 page 3.
 19 If could you take a look at the entry, 11:40?
 20 A. Right. It was on XZ 736 XS.
 21 Q. And that was the license plate of the vehicle
 22 Mr. Persico entered on that day?
 23 A. Yes.
 24 Q. Now you testified about various u-turns and turns
 25 that Mr. Persico made once he got into the car. Right?

Loughney-Bytof - Cross/Ms. Kedia

2191

1 A. Yes.
 2 Q. And you testified that in your experience, and you
 3 are experienced as a surveillance agent?
 4 A. Well that, and also I'm a substantive agent now.
 5 Q. In a law enforcement agency?
 6 A. Yes.
 7 Q. And you said when they likened to either identify
 8 surveillance or to evade surveillance. Is that right?
 9 A. Correct.
 10 Q. And when you say identify surveillance, meaning to
 11 identify whether somebody is following you. Right?
 12 A. Yes.
 13 Q. And when somebody makes movements like that, they are
 14 able to identify somebody is following them, whether it is
 15 law enforcement or somebody else altogether. Right?
 16 A. I'm sorry. Can you repeat that?
 17 Q. Meaning, maneuvers like that are made to determine
 18 whether you're being followed?
 19 A. In some cases, yes.
 20 Q. And when you say, *whether you're being followed*, it
 21 may be by anyone, not necessarily just by law enforcement.
 22 Right?
 23 A. That's correct.
 24 Q. Thank you.
 25 MS. KEDIA: I have nothing further.

Loughney-Bytof - Cross/Ms. Kedia

2192

1 MR. LaRUSSO: No questions, your Honor.
 2 MS. MAYER: No redirect, Judge.
 3 THE COURT: You can step down. Thank you.
 4 THE WITNESS: Thank you.
 5 THE COURT: The government's next witness?
 6 MR. BURETTA: I'll call Special Agent Michael
 7 Rosanova.
 8 MR. LaRUSSO: Your Honor. Can we approach?
 9 THE COURT: Yes, please approach.
 10 (The following occurred at sidebar.)
 11 THE COURT: The issue we had this morning was
 12 one involving Agent Rosanova. And I took a look at
 13 Exhibit 92, and some of the testimony that you referred
 14 to.
 15 I think that the government will be able to make
 16 out a foundation with respect to how these numbers were
 17 retrieved. And I don't necessarily agree with your
 18 premise that the lack of having a phone at this point,
 19 when there is no allegation -- it is going to be anything
 20 that would preclude the admission of these documents.
 21 The testimony of this agent is that he retrieved
 22 the numbers off the phone. He downloaded it. And it is
 23 obvious that 92 is a typed copy of those numbers. Now
 24 there is no -- they could be wrong in the sense that the
 25 agent took them down incorrectly. That is all available

Loughney-Bytof - Cross/Ms. Kedia

2193

1 for cross-examination.
 2 But I'm not too sure I agree with your
 3 proposition that that necessarily requires a record to be
 4 not admitted.
 5 MR. LaRUSSO: Without the telephone --
 6 THE COURT: Yes?
 7 MR. LaRUSSO: There is no substantive way to
 8 determine the accuracy of these exhibits that are being
 9 introduced. That is number 1.
 10 Number 2. We know that one of the telephone
 11 numbers, number 29, is not on his written report.
 12 THE COURT: Agreed.
 13 MR. LaRUSSO: At this point it's impossible for
 14 us to determine if this is what it purports to be; that is
 15 a fair and accurate depiction of what was in that
 16 telephone without the telephone itself.
 17 So it is our position that by turning the phone
 18 over good faith or bad faith excluded, the government
 19 should be precluded from using this because of the fact
 20 that we can't verify any of that information. It is
 21 impossible for us to do that at this point.
 22 Secondly, this witness didn't find this
 23 telephone, I understand.
 24 THE COURT: Given to him by?
 25 MR. LaRUSSO: Two days later. I don't know what

1 his testimony is going to be.
 2 I saw his testimony before, but I'm not sure it
 3 was clear enough.
 4 So he is really not the primary witness to even
 5 introduce this at this point in time.
 6 If it was Mr. DeStefano on the 25th that first
 7 did the first downloading of information off this and not
 8 this witness.
 9 MR. BURETTA: Judge, there is no basis for and
 10 exclusion. The witness can testify to, that it is a fair
 11 and accurate record because he did it. Period.
 12 I mean if there was some basis in law for
 13 suppressing it. They can't send to the Court rules or
 14 cases being cited or anything. They just don't like it.
 15 I mean I can't see, with all due respect, I mean normally
 16 you cite a rule or some cases that says you have to
 17 exclude this. And there is nothing being done, just
 18 comments.
 19 MR. LaRUSSO: Judge, as I indicated before this
 20 morning when you look at this document that will come in,
 21 possibly come into through this witness, there is no way
 22 to determine what the phone instrument was that it came
 23 from. We don't have a telephone. It could be yours, it
 24 could be mine, it could be anybody's.
 25 So at this point in time --

1 simply hear to say that, I received a phone, and I
 2 downloaded it. And here it is. That is all he is here
 3 for.
 4 If you want to make arguments about all kinds of
 5 other things, you can. But just so we're clear. And
 6 defense counsel, there will be other witnesses who will
 7 testify about in this, about Mr. Florida, who will talk
 8 about the fact that number 30 is what he put into his
 9 phone. He used it to contact him. There will be
 10 testimony by Agent DeStefano about the recovery of the
 11 phone. So he did the download.
 12 MR. LaRUSSO: Judge, they're not going to be
 13 able to make the connection without the telephone. No
 14 witness can testify outside of Rosanova that this is the
 15 phone. There is no witness that can do that. Rosanova
 16 was given a phone. He downloaded it. What other
 17 witnesses can say that came from the phone from the van,
 18 there isn't any other witness. There is no --
 19 THE COURT: Well they don't need a witness.
 20 MR. LaRUSSO: It could have come from anybody's
 21 car.
 22 THE COURT: Wait a minute. You have Agent
 23 DeStefano saying, I retrieved a phone pursuant to a search
 24 warrant from Maria Florida's van. I gave that phone to
 25 Agent Rosanova.

1 THE COURT: Is there a sufficient basis for me
 2 to make that determination?
 3 MR. LaRUSSO: This witness is not going to be
 4 able to do this, Judge.
 5 THE COURT: I don't know what he is going to be
 6 able to do.
 7 MR. LaRUSSO: Can we do it outside the presence
 8 of the jury to see if there is a proper foundation for its
 9 introduction, rather than prejudice the jury with its
 10 admissibility?
 11 THE COURT: What is he going to testify about?
 12 MR. BURETTA: It is very simple. He received
 13 the phone. He downloaded it. Reviewed the contents of
 14 the phone. It was a phone seized from Maria Florida's
 15 van. That's it.
 16 MR. LaRUSSO: How does he know it was seized
 17 from the Florida's van? Somebody told him. It is
 18 improper.
 19 THE COURT: Well there is a phone. There is and
 20 agent that --
 21 MR. BURETTA: Just to be clear. Like his
 22 previous testimony, this agent is here for a limited
 23 purpose. He is not here to say it was in Florida's van
 24 or it was involved in a shooting, or that it was
 25 Mr. Florida's phone. He is not here to say that. He is

1 MR. BURETTA: Yes.
 2 MR. LaRUSSO: No, that is not my understanding.
 3 My understanding is DeStefano did not give this phone over
 4 to Rosanova. That is not my understanding. That is why
 5 I'm asking if there is and offer of proof that the phone
 6 found in the car is the phone that was given to Rosanova.
 7 I don't believe there is any witness that is
 8 going to be able to say that. This was done two days
 9 after this car was seized.
 10 MR. BURETTA: We're getting ahead of ourselves.
 11 All he is here to say is, I got this phone and I
 12 downloaded it and here is the page. That's it.
 13 THE COURT: I'll tell the jury they can strike
 14 it if it doesn't come in properly.
 15 All right, let's move on.
 16 MS. KEDIA: May we just know one thing first? I
 17 think Mr. Buretta did say something earlier about it being
 18 downloaded, without some notes being taken.
 19 MR. BURETTA: Yes. I checked. There are no
 20 notes.
 21 MS. KEDIA: No handwritten notes?
 22 MR. BURETTA: We checked after our colloquy. He
 23 may have written notes. He is not sure, but they don't
 24 exist.
 25 THE COURT: And he actually made the

Rosanova - Direct/Mr. Buretta
2198

1 transcription from the notes to this?
 2 MR. BURETTA: To this.
 3 THE COURT: He typed that?
 4 MR. BURETTA: Yes.
 5 MS. KEDIA: He personally typed it?
 6 MR. BURETTA: We'll ask him. I didn't get into
 7 that level of clarity. He prepared this.
 8 THE COURT: Okay, *this* being 92?
 9 MR. BURETTA: Correct.
 10 MR. LaRUSSO: Judge, I don't want delay this any
 11 longer, this is a very critical part of the case. And if
 12 there is going to be no foundation laid, we should
 13 consider it outside of the presence of the jury now. That
 14 is my only concern, Judge. Because later it will be in.
 15 THE COURT: Let's move on. I'll tell them,
 16 subject to connection.
 17 (The following occurred in open court:)
 18
 19 MICHAEL ROSANOVA,
 20 called as a witness, having been first duly sworn,
 21 was examined and testified as follows:
 22
 23 THE WITNESS: My name is Michael Rosanova. I'm
 24 a special agent with the FBI, New York office.
 25 MR. BURETTA: May I inquire, your Honor?

Rosanova - Direct/Mr. Buretta
2199

1 THE COURT: Yes.
 2
 3 DIRECT EXAMINATION
 4 BY MR. BURETTA:
 5 Q. Good afternoon, special agent.
 6 A. Good afternoon.
 7 Q. I take it you work for the FBI?
 8 A. Yes, I do.
 9 Q. For how many years?
 10 A. I have been employed since February of 1995.
 11 Q. Directing your attention to July 25, 2001. Were you
 12 working that day?
 13 A. Yes, I was.
 14 Q. Did you receive a telephone that day?
 15 A. Yes, I did.
 16 Q. What kind of phone was it?
 17 A. It was a cellular telephone.
 18 Q. I'm sorry?
 19 A. I believe it was Verizon. I'm not sure.
 20 Q. Did you do something with that phone?
 21 A. Yes, I did.
 22 Q. Did you get a search warrant for it?
 23 A. Yes, I did.
 24 Q. And in what district?
 25 A. The Eastern District of New York.

Rosanova - Direct/Mr. Buretta
2200

1 Q. And just generally describe for the jury what that
 2 search warrant allowed you to do with the cell phone you
 3 received July 25,2001?
 4 A. It allowed me to search the memory functions of the
 5 cell phone.
 6 Q. And did you in fact search the memory functions of
 7 the cell phone?
 8 A. Yes, I did.
 9 Q. Now was this search conducted in connection with a
 10 specific investigation?
 11 A. Yes, it was.
 12 Q. What was that investigation?
 13 A. It was conducted, an investigation into the criminal
 14 activities of one Joseph Campanella, specifically the
 15 search warrant was done pursuant to another warrant that
 16 was done on a Ford mini-van, which we believed was used in
 17 an attempted homicide of Joseph Campanella.
 18 Q. And once you -- so there was a search warrant on the
 19 van?
 20 A. Yes sir.
 21 Q. And then was there a separate search warrant, so it
 22 is clear to the jury, on the cell phone?
 23 A. Yes, there was.
 24 Q. And was your participation with respect to the search
 25 of the cell phone?

Rosanova - Direct/Mr. Buretta
2201

1 A. Yes, it was.
 2 MR. BURETTA: May I approach the witness, your
 3 Honor?
 4 THE COURT: Yes.
 5 MR. BURETTA:
 6 BY MR. BURETTA:
 7 Q. Showing you Exhibit 92. Do you recognize that?
 8 A. Yes, I do.
 9 Q. Without going into the details of its contents, what
 10 is it?
 11 A. This is the information that I collected from the
 12 search warrant on the cell phone.
 13 Q. And how did you go about preparing Government Exhibit
 14 92?
 15 A. Once I got the warrant from the courts, I started
 16 with the memory functions, wrote down the information
 17 contained on a piece of paper. From a piece of paper I
 18 transcribed them into what you see before you as Exhibit
 19 92. And that exhibit was then turned over to the courts.
 20 Q. When you say turned over to the courts, what do you
 21 mean?
 22 A. I mean by return service. And I provided it back to
 23 the Eastern District to be filed with the, I guess with
 24 the Clerk at the time.
 25 Q. And when you say you transcribed your notes into

Rosanova - Voir Dire/Mr. LaRusso

2202

- 1 Government Exhibit 92, what do you mean by that?
2 A. I took a note, typed them onto a computer, a word
3 document, which is what you see before you.
4 Q. So you personally typed everything in Exhibit 92?
5 A. Yes.
6 MR. BURETTA: I offer 92.
7 MR. LaRUSSO: May I inquire, your Honor?
8 THE COURT: Yes.
9
10 VOIR DIRE EXAMINATION
11 BY MR. LaRUSSO:
12 Q. Good afternoon, agent.
13 A. Good afternoon.
14 Q. You said you got the telephone on July 25th. Is that
15 correct?
16 A. Yes.
17 Q. Where did you receive that phone?
18 A. Specifically I received it from the individual I was
19 working with at 26 Federal Plaza.
20 Q. Who is the individual you were working with?
21 A. Agent Jim DeStefano.
22 Q. Now at the time you received it, withdraw that.
23 Were you in any way involved in the search of
24 that green van on July 25th?
25 A. No, I was not.

Rosanova - Voir Dire/Mr. LaRusso

2203

- 1 Q. Where was the van. Withdraw that.
2 This phone under your understanding came from
3 the green van. Is that right?
4 A. Yes.
5 Q. You weren't there when the green van was seized by
6 the FBI. Correct?
7 A. No, I was not.
8 Q. Do you know what happened to the phone after it was
9 recovered on July 25th, before it got to you?
10 A. No, I do not.
11 Q. So the first time you saw this particular telephone,
12 was at the FBI office handed to you by Agent DeStefano.
13 Right?
14 A. That's correct.
15 Q. Now do you remember the number on that telephone?
16 A. No, I do not.
17 Q. Do you recall what type of telephone it was?
18 A. In terms of -- a cell phone.
19 Q. Make, model?
20 A. Just from, it was I think a Verizon audiovox. From,
21 that is from my recollection, review of my affidavit.
22 Q. And when you received this phone, was there any
23 number evidence on it as to what the number was, 917, 718
24 or anything like that?
25 A. Not to my recollection.

Rosanova - Voir Dire/Mr. LaRusso

2204

- 1 Q. Well when you were downloading the information, did
2 you note the telephone number of the instrument that you
3 were downloading the information from?
4 A. No, I did not.
5 Q. So this document that we're talking about, is
6 basically information on the telephone instrument, the
7 number of which you don't know. Is that right?
8 A. That's correct.
9 Q. By the way, when you were downloading the
10 information, you were making handwritten notes. Is that
11 correct?
12 A. That's correct.
13 Q. And these handwritten notes would be the telephone
14 numbers and/or letters that appeared on the instrument.
15 Is that correct?
16 A. What I wrote down was what was contained in the
17 memory.
18 Q. How is it displayed in the memory?
19 A. To the best of my knowledge, I don't remember. It
20 was six and-a-half years ago, so I don't remember.
21 Q. Never having downloaded, explain to us what you're
22 seeing in order to be able to make the notes that you
23 made.
24 A. Again, I'm going six and-a-half years ago. If I hold
25 it up and looked at whatever numbers might have been in

Rosanova - Voir Dire/Mr. LaRusso

2205

- 1 the address book, hit an enter key, the numbers came up,
2 and I wrote them down.
3 Q. Where does it come up on?
4 A. There is a screen that you can look at.
5 Q. Now where are the notes that you made when you first
6 downloaded or recorded the information that was on it?
7 A. I don't have them.
8 Q. Did you look for it?
9 A. To the best -- yes we did.
10 Q. When you say we, you did you personally conduct an
11 examination to find these notes?
12 A. Me personally, no.
13 Q. So as far as you know, as you are testifying today,
14 somebody looked for your notes. Is that correct?
15 A. To the best of my knowledge, yes.
16 Q. And isn't it a practice in the FBI that when you take
17 notes such as this, they are preserved in a 1-A file?
18 A. For interview notes, yes. For this, what I had done
19 on the document at 92, was what was recorded from the
20 phone.
21 Q. I'm sorry, I missed your answer.
22 A. I said for interview notes, yes. For this instance,
23 what I recorded off the phone is what I turned in to the
24 Court's Exhibit 92.
25 Q. So your best recollection, did you preserve your

Rosanova - Voir Dire/Mr. LaRusso

2206

1 original notes, the information that you took off this
 2 phone?
 3 A. To the best of my recollection, no.
 4 Q. What happened to this phone?
 5 A. The phone itself? I don't know where it is
 6 physically right now.
 7 Q. Well did somebody tell you it was returned to Maria
 8 Florida? Do you know that as you are testifying here
 9 today?
 10 A. I don't know.
 11 Q. Did you ever verify the information that you say you
 12 typed up for Government Exhibit 92 with the handwritten
 13 notes that you had?
 14 A. No, I did not.
 15 Q. When you looked at the screen and then called up
 16 information, it called up information, it had a list of
 17 numbers; 1 through 30.
 18 A. It had numbers on them, yes.
 19 MR. LaRUSSO: Judge, I'm going to object at this
 20 point.
 21 THE COURT: Sustained.
 22 BY MR. BURETTA:
 23 Q. Well as you looked at the screen, did you notice
 24 anything missing from the information that was being
 25 displayed?

Rosanova - Direct/Mr. Buretta

2208

1 Honor.
 2 THE COURT: Yes.
 3 (The exhibit referred to was handed to the
 4 jury.)
 5
 6 DIRECT EXAMINATION (Continued)
 7 BY MR. BURETTA:
 8 Q. Special Agent Rosanova, this is Government Exhibit
 9 92. Is that correct?
 10 A. Yes, it is.
 11 Q. When it says attachment one at the top, does that
 12 refer to an attachment to a document you turned in to the
 13 Court?
 14 A. Yes.
 15 MR. LaRUSSO: Your Honor, I object, may we --
 16 leading.
 17 THE COURT: Your objection is overruled.
 18 BY MR. BURETTA:
 19 Q. And so this document, Government Exhibit 92, was
 20 submitted to the United States District Court for the
 21 Eastern District of New York?
 22 A. Yes, it was.
 23 Q. There is the first title in the upper left says *book*.
 24 And then there are a series of names and numbers under
 25 that.

Rosanova - Voir Dire/Mr. LaRusso

2207

1 A. What was displayed in the phone in the memory was
 2 what I transcribed and is what was turned over into that,
 3 into the document of the Courts, which is Exhibit 92.
 4 Q. Do you remember when you first looked at the screen,
 5 that numbers came up, the number 1, 2, 3, on down to
 6 number 30?
 7 A. Specifically, whatever numbers came up is what I
 8 wrote down. Whatever was on the phone was what was
 9 recorded on the document which was turned in to the
 10 courts.
 11 Q. Do you know if any numbers that appeared on the
 12 screen were not recorded on your original notes and
 13 subsequently typed up on this exhibit?
 14 A. No.
 15 Q. Do you know where the phone was between the time it
 16 was seized, according to what you were told on July 25th,
 17 to the time you're conducting your download on July 27th?
 18 A. No, I do not.
 19 MR. LaRUSSO: Your Honor, I would renew my
 20 objection.
 21 THE COURT: Received, subject to connection.
 22 There may come a time when I tell you to
 23 disregard the testimony. But right now it is in evidence.
 24 (Government Exhibit 92 in evidence.)
 25 MR. BURETTA: May I publish it to the jury, your

Rosanova - Direct/Mr. Buretta

2209

1 Can you describe for the jury what *book* refers
 2 to?
 3 A. That would be the address book, and contained within
 4 the phone.
 5 Q. And it goes down 1 through 30 you have recorded here?
 6 A. Yes.
 7 Q. Was there a 29 in your recollection?
 8 A. No.
 9 Q. Now looking at entry number 30 of the address book.
 10 What is the name that appears there?
 11 A. Chic.
 12 Q. And what is the phone number for Chic that appears in
 13 this exhibit?
 14 A. 917-608-8979.
 15 Q. And is that the telephone number for Chic exactly as
 16 you found it in the cell phone that you searched?
 17 A. Yes, it is.
 18 Q. The next series of entries has the title, *missed*
 19 *calls*. What was that in the phone?
 20 A. That would be another category of data that was
 21 logged in the phone.
 22 Q. And there are entries, the most recent of which on
 23 this page is July 9, 2001. Is that correct?
 24 A. Yes, it is.
 25 Q. Then on the second and last page of Government

Rosanova - Cross/Mr. LaRusso

2210

1 Exhibit 92 there is a section entitled, *answer call*. Was
 2 that another section in the cell phone that you searched?
 3 A. Yes, it is.
 4 Q. And the most recent date listed here in the *answer*
 5 *call* section is July 6 -- I'm sorry July 9, 2001. Is that
 6 correct?
 7 A. That's correct.
 8 Q. Finally there is a section, *dialed calls*. Was that
 9 another section in the cell phone you searched?
 10 A. Yes, it is.
 11 Q. And the last dialed calls call is what date?
 12 A. July 3, 2001 at 2:52 PM.
 13 MR. BURETTA: I have no further questions.

CROSS-EXAMINATION

16 BY MR. LaRUSSO:
 17 Q. Agent Rossanova, how long were you working on the
 18 Colombo squad at this point?
 19 MR. BURETTA: Beyond the scope.
 20 THE COURT: Overruled.
 21 A. I started on that squad in June of 1997. So it would
 22 have made it a little over four years.
 23 BY MR. LaRUSSO:
 24 Q. And when did you leave the Colombo squad?
 25 A. Mid-April of 2003.

Rosanova - Cross/Ms. Kedia

2212

1 Q. Do you know whose number that is?
 2 A. No, I do not.
 3 Q. If you drop down a little bit, do you know,
 4 number 24, do you see Ross, 24?
 5 Do you know who that is?
 6 A. No, I do not.
 7 Q. Would it be fair to say you don't know the subscriber
 8 information for any of these numbers? Is that correct?
 9 A. That's correct.
 10 Q. You had nothing to do with the investigation of these
 11 numbers or subscriber information. Is that fair?
 12 A. That's fair.
 13 MR. LaRUSSO: No further questions, your Honor.
 14 MS. KEDIA: Briefly, your Honor.

CROSS-EXAMINATION

17 BY MS. KEDIA:
 18 Q. Agent Rossanova, do you have some special expertise
 19 in cell phones?
 20 A. No.
 21 Q. How often before this occasion had you downloaded
 22 information from cell phones?
 23 A. I don't recall.
 24 Q. Do you recall ever having downloaded information from
 25 cell phones?

Rosanova - Cross/Mr. LaRusso

2211

1 Q. You were part of the Campanella shooting
 2 investigation. Would that be a fair statement?
 3 A. Up to the point -- up until July, late -- up to about
 4 late August of '01.
 5 Q. Do you know the subscriber information on any of
 6 these telephones that appear here?
 7 A. No, I do not.
 8 Q. You say that there was no number at the time when you
 9 first looked at the screen on this phone. Is that your
 10 testimony?
 11 A. That is my recollection, yes.
 12 Q. Well, when you say that is your recollection --
 13 A. That is what was on the screen, yes.
 14 Q. You're basing that upon the fact that these are your
 15 notes. Correct?
 16 A. Yes.
 17 Q. This is the culmination of your notes?
 18 A. Yes.
 19 Q. You haven't verified any of this information.
 20 Because you're notes were destroyed. They're gone. I'm
 21 sorry, not destroyed. They can't be found?
 22 A. That's correct.
 23 Q. Do you see that fifth name, number 5? Is that clear
 24 for you, Mr. Rossanova?
 25 A. Yes, it is.

Rosanova - Cross/Ms. Kedia

2213

1 A. On several occasions, but the exact number I'm not
 2 aware of.
 3 Q. And when you -- when you say, for example, that you
 4 don't recall there being the number 29, for example, in
 5 the cell phone, you certainly have no clear recollection
 6 of whether there was or there wasn't. Right?
 7 A. No. What was in the address book and was -- and
 8 stated is what was written down.
 9 Q. Meaning what you recall seeing in the display?
 10 A. Yes.
 11 Q. Do you know if it was one number or two numbers at a
 12 time in the display?
 13 A. I don't recall.
 14 Q. It could have been the whole list in the display?
 15 A. It may have been, yes.
 16 Q. Well, how large of a window was it in the display?
 17 A. I don't recall.
 18 Q. When you say that you wrote down what was in the
 19 display, after you typed up that list, as we have it, you
 20 did not check your notes back. Right?
 21 A. Excuse me?
 22 Q. You didn't go back and verify. Right?
 23 A. I did.
 24 Q. With the notes, you don't even know where the notes
 25 are. Right?

Rosanova - Cross/Ms. Kedia
2214

1 A. If you're asking me am I confident of what I
2 submitted to the court is what was stored in the phone,
3 I'm very confident, yes.
4 Q. After you typed up this list, did you go back and
5 look on the phone and make sure what you typed up was what
6 was in the phone?
7 A. I don't recall.
8 Q. When you say that certain numbers appear in the
9 address book versus missed calls versus answered calls, or
10 dialed calls, tell us how these different displays were
11 had -- were shown on the phone?
12 A. I do not recall how -- what I -- how I specifically
13 scrolled through each function. I don't recall that.
14 All I recall is that when the phone was given,
15 data that was in the phone, I took the notes. I put the
16 notes on Exhibit 92. That is what was turned into the
17 Court.
18 Q. Well, Agent Rossanova, certainly within the FBI there
19 are technicians who have special expertise in downloading
20 information from electronic devices. Right?
21 MR. BURETTA: Objection, Judge.
22 THE COURT: Sustained.
23 BY MS. KEDIA:
24 Q. Well, Agent Rossanova, certainly you had no such
25 expertise. Is that right?

Rosanova - Cross/Ms. Kedia
2215

1 MR. BURETTA: Objection.
2 THE COURT: Overruled.
3 BY MS. KEDIA:
4 Q. You certainly had no expertise in downloading
5 information from electronic devices. Right?
6 A. I have been -- after I have been formally trained by
7 the FBI, no.
8 Q. Or by a home company, prior to joining the FBI?
9 A. I have not been formally trained, no.
10 Q. And when you wrote down this certain phone number on
11 -- listed on the missed calls, for example. Do you recall
12 this here in front of you, missed calls?
13 Do you see that?
14 A. That field, yes.
15 Q. Now, did you do anything to verify that any of these
16 numbers had not been deleted from the phone prior to
17 your --
18 A. No, I did not.
19 Q. And similarly in the address book, did you do
20 anything to determine whether phone numbers were deleted
21 from the address book?
22 A. No, I did not.
23 Q. Did you do anything to determine when -- you were
24 asked about this Chic, number 30. Right?
25 Did you do anything to determine when that was

Rosanova - Cross/Ms. Kedia
2216

1 actually put into the phone?
2 A. No, I did not.
3 Q. Did you do anything to determine whether number 29
4 had been deleted before you received the phone?
5 A. No, I did not.
6 Q. Now you -- once you actually made this list of the
7 address book and the missed calls and the dialed calls and
8 the answered calls, did you do anything to figure out
9 whose numbers these were?
10 A. No.
11 Q. And apart from what was actually in the display under
12 missed calls or answered calls or dialed calls -- let me
13 ask you first.
14 Do you know how these dialed calls, how they
15 appeared in the display?
16 A. No, I don't.
17 Q. Do you know where you got this information about the
18 time and the dates that a call was dialed?
19 A. Specifically?
20 Q. Yes.
21 A. Again, it was there next to the -- it would have a
22 number, to the best of my recollection, the date and the
23 time.
24 Q. And did you do anything to find out if any of these
25 other numbers had been called in the days prior -- in the

Rosanova - Cross/Ms. Kedia
2217

1 days or weeks or months prior to your downloading the
2 information?
3 A. I did not personally conduct that part of the
4 investigation.
5 Q. Do you know if it was done?
6 A. I do not know.
7 Q. When -- when you transcribed the information from
8 your notes, were you asked to turn over your notes?
9 A. No.
10 Q. And when you said you believed someone had gone to
11 look for your notes, when was that?
12 A. I was informed of that this morning.
13 Q. This morning?
14 A. Uh-huh.
15 Q. You knew this is something that was done more than
16 six years ago. Right?
17 A. Yes, that was turned into the courts back in July --
18 late in July of '01.
19 Q. And you were asked for the first time this morning
20 about handwritten notes?
21 A. That's correct.
22 MS. KEDIA: Thank you. I have nothing further.
23 MR. LaRUSSO: May I just ask one question? May
24 I, your Honor? I know at this time out of order, but just
25 one question.

Rosanova - Cross/Mr. LaRusso

2218

1 THE COURT: Never one question. Go ahead.
2 MR. LaRUSSO: Promise, hopefully.
3
4 CROSS-EXAMINATION
5 BY MR. LaRUSSO:
6 Q. Do you know Joseph Campanella to be the Little Guy?
7 A. That I do not know.
8 MR. BURETTA: Objection. Objection.
9 MR. LaRUSSO: Judge, can I have a sidebar on
10 this?
11 MR. BURETTA: Objection. Beyond the scope.
12 THE COURT: All right come on up.
13 (The following occurred at sidebar.)
14 MR. LaRUSSO: For the record, Judge, he
15 testified that he conducted as part of the investigation
16 Mr. Campanella --
17 THE COURT: I shouldn't even let you get that.
18 MR. LaRUSSO: But that came out by Mr. Buretta.
19 That didn't come out by me. This had to do with the
20 shooting of Joseph Campanella. Just this paragraph,
21 Judge. His affidavit.
22 THE COURT: Why is this important?
23 MR. LaRUSSO: Well, what will happen, Judge, is
24 Mr. Florida is going to testify that he met Carmine
25 DeRoss at a meeting in Staten Island.

Rosanova - Cross/Mr. LaRusso

2219

1 Did you refresh your recollection , and Carmine
2 DeRoss tells Mr. Florida that the Little Guy wanted to
3 know what the -- the progress of the surveillance and the
4 plot to kill Campanella. Little Guy, Mr. Florida, says
5 Jackie DeRoss, he has never been referred to as the Little
6 Guy. This agent knows --
7 THE COURT: Okay, okay.
8 MR. BURETTA: This is hearsay.
9 MR. LaRUSSO: We've been doing -- through
10 hearsay. He's an expert. He has been conducting the --
11 MR. BURETTA: He is not an expert. I don't know
12 what kind of expert you need to download a telephone. I
13 mean, I think I could do that.
14 MR. LaRUSSO: This is evidence, Judge, the
15 wiretap that he was involved in.
16 THE COURT: I know it is. Okay.
17 MR. BURETTA: I think it's not admissible. It
18 is hearsay.
19 MR. LaRUSSO: Take a look at it to refresh your
20 recollection. Mr. Campanella was referred to as the
21 Little Guy.
22 MR. BURETTA: I think he is going to say, no.
23 MR. LaRUSSO: He already did.
24 THE COURT: Yes. Okay.
25 MR. LaRUSSO: I just want him to look at it.

Rosanova - Cross/Mr. LaRusso

2220

1 THE COURT: All right. Show it to him. Over a
2 strenuous objection.
3 (The following occurred in open court.)
4 MR. LaRUSSO: With your permission, your Honor,
5 marked for identification as Mr. DeRoss Exhibit IA.
6 MR. BURETTA: Objection.
7 THE COURT: Objection overruled.
8 BY MR. LaRUSSO:
9 Q. Mr. Rossanova, would you take a look at these three
10 pieces of paper.
11 Does that refresh your recollection that
12 Mr. Campanella was referred to as the Little Guy?
13 A. That is what I had heard referred to, yes.
14 Q. So that it is clear, you were involved in a wiretap
15 investigation back in November of 2000. Is that correct?
16 A. That's correct.
17 Q. And that in an intercepted conversation between --
18 with Mr. Campanella -- between associates, he was referred
19 to as the Little Guy. Is that correct?
20 MR. BURETTA: Objection.
21 THE COURT: Sustained.
22 BY MR. LaRUSSO:
23 Q. When you heard he was called the Little Guy back --
24 was that back in November of 2000?
25 MR. BURETTA: Objection.

Rosanova - Redirect/Mr. Buretta

2221

1 MR. LaRUSSO: Time frame, Judge.
2 THE COURT: I'll permit it. If you can answer.
3 A. Repeat the question, please.
4 BY MR. LaRUSSO:
5 Q. He was referred to as the Little Guy, that was back
6 in November of 2000?
7 A. You're asking me is that the first time I heard him
8 referred to as the Little Guy?
9 Q. No.
10 Looking at that piece of paper, would it be fair
11 to say that Mr. Campanella was referred to as the Little
12 Guy back in November of 2000?
13 A. On that specific intercepted wire communication, he
14 was referred to as; the Little Guy they were referring to
15 was Campanella.
16 MR. LaRUSSO: No further questions.
17 THE COURT: Anything else?
18
19 REDIRECT EXAMINATION
20 BY MR. BURETTA:
21 Q. Is there any doubt that Exhibit 92 was taken from the
22 cell phone?
23 A. Excuse me?
24 Q. Is there any doubt in your mind that this is what you
25 took off the cell phone?

Rosanova - Redirect/Mr. Buretta

2222

1 A. Absolutely not.
 2 MR. BURETTA: No further questions.
 3 THE COURT: You can step down.
 4 So if you would step out, we'll call the last
 5 witness we have today.
 6 (The jury left the courtroom at 4:38 p.m.)
 7 THE COURT: Who is making arrangements to bring
 8 in Mr. Florida?
 9 (There was a pause in the proceedings.)
 10 (The jury entered the courtroom at 4:43 p.m.)
 11 THE COURT: Government's next witness.
 12 MS. MAYER: The government calls Giovanni
 13 Florida.
 14
 15 **GIOVANNI FLORIDIA**
 16 called as a witness, having been first duly sworn,
 17 was examined and testified as follows:
 18 THE WITNESS: Giovanni Florida
 19 THE COURT: Mr. Florida, you might be better
 20 off with that hand-held mike. Pick that up and talk into
 21 it. Thank you.
 22 MS. MAYER: May I inquire, Judge?
 23 THE COURT: Yes.
 24
 25

Florida - Direct/Ms. Mayer

2224

1 BY MS. MAYER:
 2 Q. Directing your attention -- are you okay?
 3 A. Yeah, excuse me.
 4 Q. Directing your attention to May of 1999.
 5 What happened to William Cutolo, Sr?
 6 A. Billy got killed.
 7 Q. In the years after Billy Cutolo's disappearance, did
 8 anyone speak to you about Billy Cutolo's disappearance?
 9 A. Yes.
 10 Q. Who?
 11 A. Jack DeRoss and Vincent DeMartino.
 12 Q. Who, if anyone, did Jackie DeRoss tell you was
 13 responsible for William Cutolo's disappearance?
 14 MR. LaRUSSO: Your Honor, I object to leading.
 15 THE COURT: Please try not to lead, Ms. Mayer.
 16 I know it is difficult, but try to ask general questions.
 17 BY MS. MAYER:
 18 Q. What did Jackie DeRoss tell you about Billy Cutolo's
 19 disappearance?
 20 A. That he took him into the family, and he took him out
 21 of the family.
 22 Q. And what did you understand him to mean?
 23 A. That he brought him into the family, and he killed
 24 him.
 25 MR. LaRUSSO: Judge, can we have a time frame,

Florida - Direct/Ms. Mayer

2223

1 DIRECT EXAMINATION
 2 BY MS. MAYER:
 3 Q. Mr. Florida, did you work for organized crime?
 4 A. Yes.
 5 Q. Which crime family?
 6 A. Colombo family.
 7 Q. What position did you hold in the Colombo family?
 8 A. Associate.
 9 Q. Did you know someone named William Cutolo, Sr?
 10 A. Yes.
 11 Q. Do you know someone named Joe Campanella?
 12 A. Yes.
 13 Q. Do you know someone name Jackie DeRoss?
 14 A. Yes.
 15 Q. Do you see Jackie DeRoss in the courtroom today?
 16 A. Yes.
 17 Q. Would you identify him for the jury?
 18 A. He is wearing glasses. Actually, like a teal shirt,
 19 button-down.
 20 Q. And where is he seated, just so we're clear?
 21 A. He is the second person on the right side.
 22 MS. MAYER: Judge, for the record?
 23 THE COURT: The record will reflect
 24 identification of Mr. DeRoss.
 25 MS. MAYER: Thank you.

Florida - Direct/Ms. Mayer

2225

1 please?
 2 THE COURT: Okay.
 3 MS. MAYER: Absolutely, Judge.
 4 A. When did he tell me that? It was in -- I believe it
 5 was in 2004.
 6 BY MS. MAYER:
 7 Q. Directing your attention to the spring and summer of
 8 2001.
 9 What, if any, criminal activity were you
 10 involved in regarding Joseph Campanella?
 11 A. To kill Joseph Campanella.
 12 Q. Who else, if anyone, was involved in that -- in
 13 trying to kill Joseph Campanella with you?
 14 A. It was myself, Vincent DeMartino, Jack DeRoss, Mikey
 15 Spats, Carmine DeRoss.
 16 Q. Anyone else?
 17 A. Allie Boy.
 18 Q. And when you say Allie Boy, who do you mean?
 19 A. The boss, Allie Boy Persico.
 20 Q. Mr. Florida, how old are you?
 21 A. I am 32.
 22 Q. Where did you grow up?
 23 A. Brooklyn, New York.
 24 Q. What neighborhood?
 25 A. Bensonhurst.

- 1 Q. How far did you go to school?
- 2 A. Tenth grade.
- 3 Q. Do you have any nicknames?
- 4 A. Yes.
- 5 Q. What are they?
- 6 A. John the Barber.
- 7 Q. Are you married?
- 8 A. Yes.
- 9 Q. How long have you been married?
- 10 A. 14 years.
- 11 Q. Do you have any children?
- 12 A. Yes.
- 13 Q. How many?
- 14 A. Three.
- 15 Q. Where do you currently reside?
- 16 A. Prison.
- 17 Q. Before going to prison, where did you live?
- 18 A. Staten Island.
- 19 Q. When did you first become involved with the Colombo
- 20 family?
- 21 A. About 1996.
- 22 Q. How old were you at that time?
- 23 A. I think I was about 21 -- 20 to 21, or so.
- 24 Q. Over the years that you were involved in the Mafia,
- 25 what kind of crimes did you commit?

- 1 BY MS. MAYER:
- 2 Q. I'm showing you what has been marked 2-W for
- 3 identification.
- 4 Do you recognize it?
- 5 A. Yes.
- 6 Q. Who is it?
- 7 A. That's Tommy Cappa.
- 8 MS. MAYER: Judge, I offer it.
- 9 THE COURT: Any objection?
- 10 MS. KEDIA: No objection.
- 11 MR. LaRUSSO: No objection, your Honor.
- 12 THE COURT: It is in evidence.
- 13 (Government Exhibit 2-W in evidence.)
- 14 BY MS. MAYER:
- 15 Q. Now, you said that Tommy Cappa was involved in this
- 16 illegal gambling machine. What kind of machine was that?
- 17 A. It's like a joker -- it is a Joker Poker machine.
- 18 Q. And did there come a point where you became involved
- 19 in any other illegal activity with Tommy Cappa?
- 20 A. Yes.
- 21 Q. What was that?
- 22 A. Loansharking.
- 23 Q. And explain how that worked, your loansharking with
- 24 Tommy Cappa.
- 25 A. Well, I would borrow money from Tommy, and I would

- 1 A. Loansharking, illegal gambling, assaults, plot to
- 2 kill Joseph Campanella, arson, probably a few other things
- 3 that --
- 4 Q. Were you ever involved in fraud?
- 5 A. Fraud.
- 6 Q. What about obstruction of justice?
- 7 A. Yes.
- 8 Q. You said loansharking. When you were involved in
- 9 loansharking, would you ever threaten people to collect
- 10 your money?
- 11 A. Yes, I have.
- 12 Q. Would you, have you done violence when you were
- 13 associated with the Mob?
- 14 A. Yes.
- 15 Q. How did you first become involved with the Colombo
- 16 family?
- 17 A. Well, I had barbershop in Brooklyn. And I put an
- 18 illegal gambling machine in my barbershop through Tommy
- 19 Cappa.
- 20 Q. And what, if any, connection did Tommy Cappa have to
- 21 the Colombo family?
- 22 A. He was an associate.
- 23 MS. MAYER: Judge, may I approach the witness:
- 24 THE COURT: Yes.
- 25

- 1 put it out in the street. I would lend it to other people
- 2 in the street for points, vig. They would pay me to -- a
- 3 percentage or vig on the money. And I would kick up to
- 4 Tommy, and, you know, his share.
- 5 Q. And when you say vig *and points*, what does that mean?
- 6 A. Interest.
- 7 Q. And you would collect that on a weekly basis?
- 8 A. Yes, every week.
- 9 Q. Did there come a point that something happened to
- 10 Tommy Cappa?
- 11 A. Yes.
- 12 Q. What happened?
- 13 A. He went to prison.
- 14 Q. And approximately when was that?
- 15 A. The year?
- 16 Q. Yes.
- 17 A. Probably at the end of '98, the beginning of '97.
- 18 Q. At the time that Tommy Cappa went to jail, how much
- 19 money did you have out on the street with him?
- 20 A. About \$50,000.
- 21 Q. And prior to Tommy Cappa going to jail, did he make
- 22 any arrangements with you about who was going to collect
- 23 that money?
- 24 A. Yes.
- 25 Q. Who?

Florida - Direct/Ms. Mayer
2230

1 A. Before he went to prison, he introduced me to his
2 brother, Tommy -- to his brother, Richie Cappa.
3 MS. MAYER: Judge, may I approach the witness.
4 THE COURT: Yes.
5 BY MS. MAYER:
6 Q. I'm showing you what has been marked 2-V for
7 identification.
8 Do you recognize that individual?
9 A. Yes.
10 Q. Who is that?
11 A. That's Richie Cappa.
12 MS. MAYER: I offer it.
13 MS. KEDIA: No objection.
14 MR. LaRUSSO: No objection.
15 THE COURT: Received in evidence.
16 (Government Exhibit 2-V in evidence.)
17 BY MS. MAYER:
18 Q. Now, you said Richie Cappa was Tommy Cappa's brother.
19 Is that right?
20 A. Yes.
21 Q. And what, if any, connection did Richie Cappa have to
22 the Colombo family?
23 A. He was an associate also.
24 Q. How big did your loansharking business with Tommy
25 Cappa get?

Florida - Direct/Ms. Mayer
2231

1 A. At one point, it was between 300 and \$350,000.
2 Q. And when was that, when it was at its biggest?
3 A. Around, probably about '97, '98, '99. In those
4 years.
5 Q. Were you ever arrested for loansharking?
6 A. No.
7 Q. After you cooperated with the government, did you
8 tell the government about the loansharking even though you
9 had never been arrested?
10 A. Yes.
11 Q. Why?
12 A. That's part of me coming clean and cooperating, and
13 admitting to all of the crimes that I committed in my
14 entire life; the crimes that I committed, and the crimes I
15 committed with other people.
16 Q. Did you know someone named William Cutolo, Sr?
17 A. Yes.
18 Q. I show you this exhibit in evidence. Who is that?
19 A. That's Billy.
20 Q. When did you first meet Billy Cutolo?
21 A. I probably met Billy in 1997.
22 Q. Tell the jury what led up to your first meeting with
23 Billy Cutolo.
24 A. It was a problem I had with loanshark money.
25 Q. And explain that to the jury.

Florida - Direct/Ms. Mayer
2232

1 A. Well, I had lent out some money to a guy, and he had
2 a problem paying. And he asked me whose money, you know,
3 this was.
4 And I told him that it was Wild Bill's money,
5 because that's what Richie Cappa had told me once before;
6 that if somebody ever asked you whose money that you're
7 putting out on the street, to tell them that it was
8 Billy's. And that's what I did.
9 And what happened is it got back to Billy that I
10 mentioned his name. And he had sent Downtown Ronnie to my
11 barbershop on Kings Highway. And apparently he didn't
12 know, you know, that I was putting money out.
13 And Downtown Ronnie told me that Billy said that
14 if I ever mentioned his name again, that he was going to
15 split my head open and hang it from one side of the
16 barbershop to the other.
17 Q. Now, Downtown Ronnie, what connection did he have to
18 the Colombo family.
19 A. He was an associate.
20 Q. After Downtown Ronnie came to your barbershop and
21 told you that if you used Billy's name again he would
22 split your head open, did anyone else come to see you?
23 A. Yes.
24 Q. Who?
25 A. Paulie Rizzuto.

Florida - Direct/Ms. Mayer
2233

1 Q. And what, if any, connection did Paulie Rizzuto have
2 to the Colombo family?
3 A. He is an associate.
4 Q. Putting up what is in evidence as 2-KK. Who is that?
5 A. That's Paulie.
6 Q. And what happened when Paulie Rizzuto came to your
7 shop? Let me ask you this.
8 How soon after Downtown Ronnie's visit did
9 Paulie Rizzuto come to see you?
10 A. I don't really remember how long or -- you know, but
11 I knew it was -- it was soon. It was relatively soon.
12 But before, you know, Paulie came, I had talked to -- I
13 had told Richie what happened.
14 Q. And when you say Richie, who do you mean?
15 A. Richie Cappa.
16 Q. And what did you discuss with Richie Cappa?
17 A. Well, I told him what Billy -- what Downtown Ronnie
18 had told me. And he told me don't worry. He'll take care
19 of it.
20 Q. And then you said Paulie Rizzuto came to your shop?
21 A. Yeah. And then Paulie Rizzuto came to the shop and
22 said that Billy wanted to see me at the club. And for me
23 to go at the club that night.
24 Q. Prior to going to the club or going to see Billy
25 Cutolo, did you talk to anyone else after you spoke to

Florida - Direct/Ms. Mayer

2234

- 1 Paulie Rizzuto?
- 2 A. I called Richie again, and I told him that Billy
- 3 wanted to see me now. And he told me when you go to the
- 4 club, and Billy asks you how much money you have out, tell
- 5 him it was between 80 and \$100,000. Meaning, don't tell
- 6 him the true amount that we had out on the street.
- 7 Q. And what was the true amount around that time?
- 8 A. It was in the \$300,000 range.
- 9 Q. Did you, in fact, go to Billy, see Billy Cutolo after
- 10 you spoke to Richie Cappa?
- 11 A. Yes.
- 12 Q. Explain that to us. What happened, where did you go?
- 13 A. Well, I went to the club. And I seen Billy -- I seen
- 14 Paulie, and he brought me over to Billy.
- 15 And Billy asked me how much money I have out.
- 16 And I told him between 80 and \$100,000. And he told me
- 17 from now on that he wants me to start coming to the club
- 18 every week to pay him directly.
- 19 Q. Now, you said that you went to the club. What club
- 20 are you talking about?
- 21 A. The Friendly Bocce Club.
- 22 Q. And whose club was that?
- 23 A. That was Billy's club.
- 24 Q. Where is it located?
- 25 A. It was on 63rd and 11th Avenue.

Florida - Direct/Ms. Mayer

2236

- 1 at the time.
- 2 Q. So you told him that you had 80 to \$100,000 out?
- 3 A. Exactly.
- 4 Q. And was that the truth?
- 5 A. No.
- 6 Q. Now, you said that Billy Cutolo told you, you were
- 7 going to start paying him. Is that right?
- 8 A. Yes.
- 9 Q. And did he tell you how often you would have to make
- 10 payments to him?
- 11 A. Every Wednesday.
- 12 Q. And who were you supposed to go see to pay?
- 13 A. Well, he had -- he had this guy Vinnie that used to
- 14 do all of the collecting for him.
- 15 Q. Do you know Vinnie's last name?
- 16 A. No.
- 17 Q. And where would you go see Vinnie to pay him?
- 18 A. Well, first Vinnie was stationed at the, -there was a
- 19 bar around the corner from the club. And the bar was on
- 20 62nd and 11th.
- 21 And Vinnie was stationed at the bar. And, you
- 22 know, everybody in the family would come and make the
- 23 payments to Vinnie for Billy. He was collecting for
- 24 Billy.
- 25 Q. And when you say there was a bar; do you remember the

Florida - Direct/Ms. Mayer

2235

- 1 Q. And is that where you went to meet Billy Cutolo?
- 2 A. Yes.
- 3 Q. How soon after Paulie Rizzuto came to see you at your
- 4 barbershop do you go to Billy's club to meet with them?
- 5 A. It was that Wednesday night that I went to see him.
- 6 Q. And when you got to the club, what did you do? Who
- 7 did you walk up to, talk to, when you got to the club.
- 8 A. Well, I went to go meet Paulie.
- 9 Q. And what happened?
- 10 A. And I seen Paulie there. And then he brought me over
- 11 to Billy.
- 12 Q. And you said that Billy was asking you about how much
- 13 money you had out on the street?
- 14 A. Yes.
- 15 Q. Describe Billy when he was questioning you.
- 16 A. Describe him?
- 17 Q. Yes, describe for the jury. What was he questioning
- 18 you like?
- 19 A. Well, he was grilling me. I mean, you know, he
- 20 wanted to know how much money I had out on the street.
- 21 Q. And what was your reaction when Billy Cutolo was
- 22 questioning you?
- 23 A. Well, he was very intimidating. You know, and I
- 24 just -- you know, told him what Richie had told me,
- 25 because I didn't really know, you know, what was going on

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- 1 name of the bar?
- 2 A. Yes.
- 3 Q. What was it?
- 4 A. Secrets.
- 5 Q. Was there a regular day of the week that you make
- 6 your payments to Vinnie at the bar?
- 7 A. Yes.
- 8 Q. What day?
- 9 A. Every Wednesday night.
- 10 Q. And after you would make your payments to Vinnie at
- 11 the bar, where would you go?
- 12 A. We would go over around the block to the club to show
- 13 your face to Billy.
- 14 Q. And after that meeting, where Billy Cutolo was
- 15 grilling you about how much money you had out on the
- 16 street, who were you reporting to in the Colombo family?
- 17 A. To Billy.
- 18 Q. Who were some of the people that you would see at
- 19 Billy's club on Wednesday nights?
- 20 A. There was a lot of people there. I mean, probably --
- 21 I don't know, a lot of the people but I would see Joe
- 22 Campy, Frank Campy, Billy, Black Dom, Paulie Rizzuto, John
- 23 Cebone, Mikey Spats -- I mean, you know, there was a lot
- 24 of people in the club then, probably forgot their names
- 25 now.

1 Q. I'm just going to put up some photos here.
 2 You said Joe Campy. Is that Joe Campy?
 3 A. Yes.
 4 Q. Who is that?
 5 A. I think that's Frank Campy.
 6 Q. Who is that?
 7 A. John Cebone.
 8 Q. Did he have a nickname?
 9 A. Johnny Brains.
 10 Q. Is that Dom?
 11 A. Yes.
 12 Q. And do you recognize this person? Who is that?
 13 A. That is Mikey Spats.
 14 Q. Do you know his real name?
 15 A. Michael Spataro.
 16 Q. Are these some of the people you would see at the
 17 club -- at Billy's club?
 18 A. Every week.
 19 THE COURT: I think we'll break for the day. It
 20 is 5:00 now.
 21 MS. MAYER: Yes, Judge.
 22 THE COURT: Ladies and gentlemen, I have some
 23 special instructions. Tomorrow you will not have to be
 24 here until ten o'clock.
 25 There is going to be a fire drill early in the

1 morning. So rather than have you come in only to be --
 2 have to wait in line a second time to come back into the
 3 building, I will start the trial at ten o'clock.
 4 The same rules apply through this proceeding.
 5 Do not let anyone influence you.
 6 Do not talk about this case.
 7 If anyone tries to influence you, immediately
 8 report it to me and don't discuss it with other jurors.
 9 Don't read, view or listen to anything that
 10 might be reported in the media, anything about this case.
 11 Don't do any investigation or research about
 12 this case. And please keep an open mind.
 13 We'll see you tomorrow at ten o'clock. Have a
 14 nice evening.
 15 Thank you.
 16 (The jury left the courtroom at 5:03 p.m.)
 17 MS. KEDIA: Two things, your Honor.
 18 THE COURT: I believe you can exit this way.
 19 Just make sure the hall is clear.
 20 MS. KEDIA: Who is coming after Mr. Florida?
 21 MR. BURETTA: We'll send a letter tonight,
 22 Judge. I frankly don't know which one. I'm pleased to
 23 see we are --
 24 THE COURT: Just be seated for a moment. I have
 25 and evidentiary issue which there was and application made

1 ex parte, pertaining to the witness that is currently on
 2 the stand.
 3 If the government would step out, I'll review
 4 the documents, or give my thoughts with regard to those
 5 documents. And then if any of them are going to be turned
 6 over to them, they will be made available to you,
 7 Mr. Buretta and Mr. Goldberg and Ms. Mayer. Okay?
 8 MS. KEDIA: Your Honor, I believe that the
 9 jurors still have transcripts on their chairs from the
 10 tapes that were played a couple of weeks ago. We can just
 11 remove them. I think I see them kind of picking them up
 12 each time.
 13 MR. BURETTA: It looks like they're taking
 14 notes.
 15 THE COURT: They may be taking notes.
 16 MS. KEDIA: In the transcript?
 17 THE COURT: They do on occasion. But what I
 18 think we can do is, I'll have Charlie -- I don't want to
 19 take them off of anyone's seat. Because if they have
 20 taken notes in there --
 21 MS. KEDIA: Certainly. I didn't know.
 22 THE COURT: Obviously it would be a violation.
 23 But I'll just review with Charlie and make sure that those
 24 go under lock and key also.
 25 MR. BURETTA: Just one more thing for the

1 record.
 2 Mr. LaRusso just handed us a box that he says
 3 relates to this witness. It's a big box.
 4 THE COURT: What is it, Mr. LaRusso?
 5 MR. LaRUSSO: Records, Judge, that may become
 6 part of cross. I don't know how many documents I may
 7 need. As you can tell from these witnesses sometimes it
 8 is difficult to draw information out.
 9 If I don't have problems, I'll let him look at
 10 them and I won't use them. But because of what you had
 11 mentioned to us earlier, I'm not taking a chance. I'm
 12 turning overall my, you know, copies.
 13 I just got these by the way, to be honest with
 14 you, Judge. I have been dealing with bits and pieces.
 15 But these are all of the telephone records that may become
 16 relevant during the examination of Mr. Florida. Again,
 17 Judge --
 18 THE COURT: These are records relating to phones
 19 Mr. Florida purportedly had access to or used?
 20 MR. LaRUSSO: Well, it was Mr. Florida's phone.
 21 Mr. DeMartino's phone. It would be Mr. Spataro's phone.
 22 It would be public pay phones. I can go on and on, Judge.
 23 There are a host of people who will be mentioned, people
 24 who will have had contact with Mr. Florida and others
 25 over the telephone.

1 And quite frankly, Judge, the telephone
2 instruments and the communications are going to pay a very
3 critical part in this case. Because right after the
4 Campanella shooting there are a number of calls that were
5 made by Mr. DeMartino to Mr. Spataro, several pages of
6 Mr. DeRoss.

7 And then thereafter many more phone calls on
8 private lines and pay phones. I can go into it, Judge, if
9 you want. But what I have done is I have turned these
10 over to the government. I don't know if they have them
11 all. I think they may have them all. But I'm not taking
12 a chance. I just got them last night.

13 MR. BURETTA: I just want the record to reflect
14 that we're getting this entire bankers box of documents
15 right before the witness testifies. To the extent that
16 we're trying to have an efficient trial where we don't
17 have disputes about evidence, this is not -- this does not
18 forward the ball in estimation. Thank you.

19 MR. LaRUSSO: Just for the record, Judge, if
20 this was my case I could understand this. We're on the
21 government case. And I have no idea what will be
22 necessary though cross-examination.

23 I am assuming the government has done their
24 investigation, and have subpoenaed all of these phone
25 records. So this is only going to be duplicative.

1 have been several documents I have turned over throughout
2 the course of this trial. I didn't go back and bates
3 stamp those, and turn them over again.

4 Of course I provided copies previously to the
5 government. They do relate to, I recall two sets of phone
6 records which were turned over. The government has had in
7 its possession for sometime now. One is related to a
8 phone number 891-7913 -- 7987. And it related to a number
9 917-554-7000.

10 THE COURT: And what are these supposed to be?

11 MS. KEDIA: One is the cell phone that was
12 referred to on the March 30th recording during the
13 testimony of Barbara Cardinale as a cell phone that her
14 father used. And the other one were the phone records
15 that were in the name of Sally -- who is the person that
16 Joseph Campanella said he had a phone under his name.

17 THE COURT: Have a nice evening.

18 MR. BURETTA: Have a nice evening, Judge.

19 THE COURT: If you don't mind, I don't believe
20 the defendants necessarily want to be here for these
21 rulings. It is up to you folks.

22 MS. KEDIA: Thank you, your Honor.

23 MR. LaRUSSO: Judge, do you want to do this at
24 sidebar?

25 THE COURT: Yes, I would.

1 They'll find out very quickly by looking at the
2 cover page. I gave a copy of the subpoena so this shows
3 exactly what was called for. It is not going to take them
4 too long to go through it. I think I can put them aside
5 if they have the records.

6 This is the government's case, not the defense
7 case. I'm under no obligation other than the Court's
8 position trying to move this trial along. That is why I
9 did it, Judge, so it is not going to take that long to
10 look through those and see what they are.

11 MR. BURETTA: There is a rule called Rule 16,
12 which requires the defendant to turn them over. I don't
13 say that, I know the Court knows that. I direct that to
14 counsel. He knows that.

15 MR. LaRUSSO: Judge, I'm turning them over well
16 before my case. I'm sorry.

17 THE COURT: I think Rule 16 kicks in a lot
18 earlier than that. But in any event, let's move on.

19 All right, have a nice evening. If you turned
20 anything over that was previously subpoenaed, you will get
21 a copy of it tonight.

22 MS. KEDIA: Your Honor, just to clarify for the
23 record the documents that I turned over a week ago, they
24 were bates stamped. And I'll give the Court the exact
25 bates stamp numbers. But the ones I turned over, there

1 MS. KEDIA: If your Honor doesn't have any
2 objection the marshals are going to come up with the
3 defendants

4 THE COURT: Okay.

5 (The following occurred at sidebar.)

6 (A sealed record, pages 2246 through 2255,
7 ensued.)

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