

1 IN THE HONORABLE SENATE OF THE STATE OF ILLINOIS
2 FOR THE NINETY-SIXTH GENERAL ASSEMBLY
3 SITTING AS AN IMPEACHMENT TRIBUNAL

4 In re:)
5 Impeachment of)
6 Governor ROD R. BLAGOJEVICH)

7
8
9 Hearing held before the Honorable Chief
10 Justice Thomas Fitzgerald on the 27th of
11 January, 2009 at the hour of 9:55 a.m., in the
12 Senate Chambers, Illinois State Capitol,
13 Springfield, Illinois.

14

15

16 TRANSCRIPT OF PROCEEDINGS

17 VOLUME 2

18

19

20

21 REPORTED BY: Gina M. Luordo, CSR, RPR, CRR

22 LICENSE NO. 084-004143

23 Brenda S. Tannehill, CSR, RPR, CRR

24 084-003336

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I N D E X

WITNESS	DX	CX	RDX	RCX
DANIEL CAIN				
By Mr. Ellis	143			
CHAPIN ROSE				
By Mr. Ellis	323			

1 (Whereupon, the following
2 proceedings were had in the
3 above-entitled cause.)

4 CHIEF JUSTICE FITZGERALD: Please be
5 seated.

6 We'll begin with an announcement. Ladies
7 and gentlemen, I have an announcement. On your
8 desk, you will find a packet of question forms.
9 These forms may be used to write down any
10 questions you may have of the witnesses.

11 Please print your question and fill out
12 the requested information. Staffers around the
13 Chamber are available to take your questions so
14 that they may be asked at the proper time.

15 Thank you.

16 Let the record reflect that the House
17 Prosecutor is present in the Chamber.

18 Is the Governor present? Is
19 counsel present on behalf of the Governor?

20 The record will reflect that the
21 Governor has chosen not to appear either in
22 person or by counsel.

23 We will now resume the presentation of
24 live testimony. If the House Prosecutor would

1 please call his first witness.

2 HOUSE PROSECUTOR ELLIS: Thank you very
3 much, your Honor. The House Prosecutor would
4 call Special Agent Daniel Cain.

5 CHIEF JUSTICE FITZGERALD: The
6 Sergeant-at-Arms will please escort Mr. Cain to
7 the podium.

8 Ms. Secretary, please -- Madam Secretary,
9 please swear in the witness in accordance with
10 Impeachment Rule 22.

11 MADAM SECRETARY: Please raise your
12 right hand and repeat after me and insert your
13 name at the proper place.

14 (Whereupon, the witness was sworn.)

15 CHIEF JUSTICE FITZGERALD: Mr. Cain,
16 please take your seat.

17 The House Prosecutor may -- may now
18 proceed to examine the witness.

19 HOUSE PROSECUTOR ELLIS: Thank you very
20 much, your Honor.

21 And for the Members' benefit, I would
22 just like to briefly discuss what we talked about
23 yesterday with regard to this witness. This is a
24 -- a somewhat unorthodox situation in the midst

1 of an ongoing criminal investigation.

2 We're fortunate to have a special
3 agent working on the investigation testifying as
4 to this affidavit.

5 As we talked about yesterday, pursuant
6 to Department of Justice regulations, the United
7 States Attorney has the authority and has
8 exercised the authority in this case to limit
9 the questioning of this witness to certain
10 areas.

11 Again, these areas will be Special
12 Agent Cain's background and responsibilities,
13 whether the affidavit which is Exhibit 3 that
14 was executed by Special Agent Cain was accurate,
15 true and accurate, to the best of his knowledge
16 at the time he executed it, whether the
17 summaries and the quotes of the Governor's
18 statements or anybody's statements contained in
19 this affidavit, as well as the voice
20 identification of the Governor, were accurate and
21 he ensured that they were accurate at the time
22 that he executed the affidavit, and also the
23 general procedures that Special Agent Cain and
24 others assisting him followed in verifying the

1 accuracy of the things in his affidavit.

2 As I told you yesterday, an Assistant
3 United States Attorney would be accompanying
4 Special Agent Cain, and in the event that I ask
5 a question that is out of bounds or I suppose in
6 the event that another question is asked later
7 that is beyond the scope of this, it will be
8 Mr. -- it will be the U.S. Attorney's job to
9 instruct Mr. Cain not to answer.

10 Tom Walsh from the U.S. Attorney's
11 Office is sitting here today next to Mr. Cain.
12 And I just wanted to make sure everybody recalled,
13 you know, sort of this rather unusual situation.

14 DANIEL CAIN,
15 called as a witness herein, having been first
16 duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY HOUSE PROSECUTOR ELLIS:

20 Q. Special Agent Cain, good morning.

21 Could you introduce yourself to the
22 Senate, please?

23 A. Good morning. My name is Daniel Cain.

24 Q. Agent Cain, I'm going to have handed to

1 you a copy -- I'm going to be handing you a copy
2 of what has been marked as Exhibit 3, and we're
3 going to give a copy to Mr. Walsh, if we could as
4 well, so he can follow along.

5 Agent Cain, do you recognize that
6 document?

7 A. I do.

8 Q. What is that document?

9 A. This is the criminal complaint and the
10 affidavit I filed before Magistrate Judge
11 Michael Mason.

12 Q. And when did you do that? When did you
13 file that before Judge Mason?

14 A. I filed it on December the 7th, 2008.

15 Q. Okay. And was that two days before
16 the Governor was arrested?

17 A. Yes, it was.

18 Q. Okay. Agent Cain, if you could, just
19 briefly -- or -- or just tell us, tell the Senate
20 your -- your experience and background, please.

21 A. I grew up in Central Illinois. I
22 attended the University of Illinois in
23 Champaign, Illinois, where I graduated with a
24 bachelor of science degree in accounting in

1 1980. Thereafter, I worked as an internal
2 auditor at a bank in St. Louis.

3 CHIEF JUSTICE FITZGERALD: Agent Cain,
4 excuse me for just a moment.

5 Have we advised the Senate that they have
6 the same packet that the witness will be working
7 from?

8 HOUSE PROSECUTOR ELLIS: I apologize.
9 I believe that we do have a packet that's been
10 distributed that contains this -- this affidavit,
11 your Honor.

12 MADAM SECRETARY: It's not been
13 distributed yet.

14 CHIEF JUSTICE FITZGERALD: Mr. Cain, I
15 apologize.

16 HOUSE PROSECUTOR ELLIS: I apologize,
17 your Honor. I thought that they had the packets
18 already.

19 CHIEF JUSTICE FITZGERALD: Did all the
20 Senators receive the booklet? All right.

21 You may proceed, Counsel.

22 HOUSE PROSECUTOR ELLIS: Okay. Thank you,
23 your Honor.

1 BY HOUSE PROSECUTOR ELLIS:

2 Q. So, Mr. Cain, I think you left off with
3 the -- the first job you had taken after you
4 graduated the University of Illinois. If you
5 can continue with your background, please.

6 A. Yes.

7 After graduating from the University of
8 Illinois, I received a certification as a
9 Certified Public Accountant, and my first job
10 was as an internal auditor at a bank in
11 St. Louis, Missouri.

12 Afterwards, I was an accounting
13 manager, export manager, office manager, for an
14 agriculture firm near Champaign, Illinois.

15 I joined the FBI in July of 1986 as a
16 special agent. I have been a special agent
17 for over 22 years, working a majority of that
18 time investigating white collar crimes.

19 My first office was in Portland,
20 Oregon. I was there for a couple of years and
21 transferred to the Chicago field office in
22 January of 1989.

23 Early in 1989, I was assigned to an
24 investigation involving the Chicago Board of

1 Trade and the Chicago Mercantile Exchange,
2 commodities investigation involving fraud at
3 those exchanges where traders were defrauding or
4 cheating customers of money in trades
5 executed on the floor of those exchanges.

6 Afterwards, I was assigned to a large
7 highway fraud investigation where a large
8 contractor was overbilling for materials used on
9 road construction projects and defrauding union
10 workers out of certain pay and benefits.

11 During approximately this time,
12 starting in 1994, as an additional duty to
13 investigating white collar crimes, I was a
14 member of Chicago's Evidence Response Team, where
15 I received specialized training in searching,
16 collecting and documenting evidence collected at
17 crime scenes.

18 In that role, I was sent to the crime
19 scene at the Oklahoma City bombing in 1995. I
20 was sent to Nairobi, Kenya to the investigation
21 of the bombing of the U.S. Embassy in 1998. And
22 on September the 11th, 2001, our Evidence
23 Response Team was sent to Somerset, Pennsylvania
24 to investigate the crash of United Airlines

1 Flight 93.

2 Starting in approximately 2003, I was
3 assigned to a series of investigations involving
4 public corruption which led up to the charges
5 that are documented in this complaint.

6 Q. Agent Cain, do you have experience
7 dealing with the nonconsensual interception of
8 oral and wire communications?

9 A. Yes, I do.

10 Q. Agent, I'd like to ask about your
11 involvement in this investigation that led to
12 the filing of this criminal complaint against
13 Governor Blagojevich. I'd like to turn your
14 attention to Paragraph 2 of your affidavit,
15 Exhibit 3. I'm going to read it to you.

16 "I have participated in and am familiar
17 with this investigation through interviews and
18 analysis of reports submitted by other special
19 agents of the FBI, the Internal Revenue Service,
20 the U.S. Postal Inspection Service, and the U.S.
21 Department of Labor's Office of Inspector
22 General; personal interviews conducted with
23 witnesses; my review of consensually-recorded
24 conversations; a review of pen register

1 information, trap and trace information, and
2 telephone toll record information; and a review
3 of information derived from the interception of
4 wire communications occurring to and from certain
5 telephones. I am also {sic} familiar with
6 information derived from the interception of
7 oral communications occurring in the offices of
8 Friends of Blagojevich, 4147 North Ravenswood
9 Avenue, Suite 300, Chicago, Illinois. In
10 addition, I am familiar with testimony given
11 during the trial of Antoin Rezko from March
12 to May of 2008."

13 Agent Cain, is Paragraph 2 true and
14 accurate to the best of your knowledge?

15 A. Yes, it is.

16 Q. Okay. I'd like to turn your attention
17 to some of the details of this investigation
18 that led to the ultimate intercepting of
19 conversations involving the Governor at his
20 home and at his campaign office as you recounted
21 in Paragraph 2. And, I'd like to turn your
22 attention to Paragraph 14 of your affidavit.

23 Paragraph 14. As detailed below, in

1 early October 2008, the government obtained
2 information that Rod Blagojevich was
3 accelerating his corrupt fund raising activities
4 to accumulate as much money as possible before
5 the implementation of ethics legislation on
6 January 1, 2009, that would severely curtail Rod
7 Blagojevich's ability to raise money from
8 individuals and entities conducting business
9 within the State of Illinois. Based in part
10 on the recently obtained information, and as
11 part of the investigation into Rod Blagojevich's
12 corrupt fund raising activities -- fund raising
13 efforts, in October 2008, the government obtained
14 court approval to intercept oral communications
15 in certain locations in the offices of Friends
16 of Blagojevich. In addition, as part of its
17 investigation, the government obtained court
18 approval to intercept wire communications on the
19 home phone of Rod Blagojevich. Specifically:

20 On October 21, 2008, Chief Judge
21 James F. Holderman signed an order authorizing
22 the interception of oral communications for
23 a 30-day period in two rooms at the Friends of
24 Blagojevich office: the personal office of Rod

1 Blagojevich and the conference room.
2 On the morning of October 22nd, 2008, the
3 FBI began intercepting oral communications in
4 those rooms. On November 19th, 2008, Chief
5 Judge James F. Holderman signed an order
6 authorizing the continued interception of
7 oral communications in the two rooms at the
8 Friends of Blagojevich office for a second
9 30-day period.

10 On October 29th, 2008, Chief Judge
11 James Holderman entered an order authorizing
12 the interception of wire communications to
13 and from a landline telephone subscribed to
14 Rod Blagojevich's home address and used by
15 Rod Blagojevich and others. The interception
16 of wire communications to and from Rod
17 Blagojevich's home -- home phone began on the
18 evening of October 29, 2008. On November 26,
19 2008, Acting Chief Judge Matthew F. Kennelly
20 signed an order authorizing the continued
21 interception of wire communications on Rod
22 Blagojevich's home phone for a second
23 30-day period.

24 Agent Cain, is that paragraph true

1 and accurate to the best of your knowledge?

2 A. Yes, it is.

3 Q. Okay.

4 So we've talked about the fact that you
5 have -- we are now at the point where the Court
6 has authorized the Federal Government to
7 intercept communications at the Governor's
8 campaign office and at his home phone. I'd
9 now like to talk to you a little bit about the
10 recorded conversations that resulted from these
11 interceptions.

12 Agent, throughout Exhibit 3, throughout
13 this 76-page affidavit, you summarized various
14 statements made by the Governor, and you quote
15 various statements made by the Governor; is that
16 a fair statement?

17 A. Yes.

18 Q. Can you explain the general procedures
19 you followed in verifying the accuracy of those
20 summaries or those quotes?

21 A. Yes.

22 FBI agents listened to the recorded

1 conversations repeatedly and repeatedly compared
2 those conversations to the quotes and the
3 summaries in the complaints. There were a lot
4 of people that listened to and compared these
5 quotes and summaries a lot of times during the
6 process.

7 Q. So after the summaries or the quotes
8 were drafted into an affidavit, they were then
9 compared back? Agents would then re-listen to
10 the tapes to make sure that these summaries or
11 quotes were accurate?

12 A. That's correct.

13 Q. Can you tell us for any particular
14 conversation how many -- how many times one of
15 your agents would have listened to these tapes,
16 to these recordings?

17 A. I can't give you an exact number of
18 times for the entirety of the recordings. I
19 can say it depended on the length of the
20 recording and the complexity of the recording,
21 but agents would listen to the recording
22 repeatedly as many times as necessary to verify
23 the accuracy of the summary and the quote.

24 Q. Let me ask you about voice

1 identification. There are a number of times in
2 this complaint where you attribute statements to
3 Governor Rod Blagojevich.

4 How did you positively identify the
5 voice of the Governor as the one making those
6 statements?

7 A. Well, the Governor is a very public
8 figure, speaking at public appearances, in the
9 media, on television and the radio, so there's a
10 certain voice recognition with that element
11 alone, but we placed the bugs in the campaign
12 office, in his campaign office, and tapped his
13 telephone where we knew he had conversations.

14 We would listen to those telephone
15 conversations, and at times, he would
16 self-identify during those conversations. At
17 times, other people would identify him or
18 reference him, and that would be the next voice
19 that would appear during the conversation.

20 Also, there were various other methods
21 used to identify the Governor's voice, but in
22 the end, we were very confident that it was the
23 Governor's voice in those conversations.

24 Q. Did you have any difficulty in -- in

1 identifying his voice?

2 A. No, we did not.

3 Q. Agent Cain, for each statement in this
4 affidavit -- we're going to go through this
5 affidavit in some detail, but let me ask you at
6 the outset, for each statement in this affidavit
7 that you attributed to Governor Rod Blagojevich,
8 did you positively identify the voice as
9 Governor Blagojevich's voice?

10 A. Yes, we did.

11 Q. I'd like to get into some specifics now.
12 And I'd like to first turn to the allegations,
13 the information in -- in your affidavit relating
14 to the United States Senate seat.

15 I'm going to first direct your
16 attention to Paragraph 86, if I could. And I
17 will note that above Paragraph 86 in this
18 affidavit is the heading "Evidence Concerning
19 Efforts to Obtain Personal Benefits for Rod
20 Blagojevich in Return for his Appointment of a
21 United States Senator," just for the record.

22 Paragraph 86. Intercepted phone
23 calls demonstrate that Rod Blagojevich, John
24 Harris, and others have engaged and are engaged

1 in efforts to obtain personal gain, including
2 financial gain, for the benefit of Rod
3 Blagojevich and his family through the corrupt
4 use of Rod Blagojevich's authority as
5 Governor of the State of Illinois to fill the
6 vacant United States Senate seat previously held
7 by the President-elect.

8 Agent Cain, at the time you executed
9 this affidavit, was that paragraph true and
10 accurate?

11 A. Yes.

12 Q. To the best of your knowledge?

13 Thank you.

14 Paragraph 87, sir: By law, after the
15 President-elect's resignation of his position as
16 a U.S. Senator, which was effective on November
17 16th, 2008, Rod Blagojevich has sole authority to
18 appoint his replacement for the two years
19 remaining on the President's Senate term -- I'm
20 sorry -- the President-elect's Senate term.
21 There's a citation to State law. During the
22 course of this investigation, agents have
23 intercepted a series of communications
24 regarding the efforts of Rod Blagojevich,

1 John Harris, and others to misuse this
2 power to obtain personal gain, including
3 financial gain, for Rod Blagojevich and his
4 family. In particular, Rod Blagojevich
5 has been intercepted conspiring to trade
6 the Senate seat for particular positions
7 that the President-elect has the power
8 to appoint, for example, the Secretary of
9 Health and Human Services. Rod Blagojevich
10 has also been intercepted conspiring to
11 sell the Senate seat in exchange for his
12 wife's placement on paid corporate
13 boards or Rod Blagojevich's placement
14 at a private foundation in a significant
15 position with a significant -- with a
16 substantial salary. Rod Blagojevich
17 has also been intercepted conspiring
18 to sell the Senate seat in exchange
19 for millions of dollars in funding for a
20 nonprofit organization that he would start
21 and that would employ him at a substantial
22 salary after he left the governorship.

23 Agent Cain, at the time you executed

1 this affidavit, was that paragraph true and
2 accurate to the best of your knowledge?

3 A. Yes, it was.

4 Q. I'd like to -- well, you know what?
5 Let's go to Paragraph 88, the following one.

6 Set out below are summaries of certain
7 of the conversations referenced above. This
8 affidavit does not include all calls dealing
9 with the corrupt efforts of Rod Blagojevich,
10 John Harris, and others to misuse the
11 power of Rod Blagojevich to appoint a United
12 States Senator for the personal gain of Rod
13 Blagojevich and his family, nor does this
14 affidavit set forth other calls where Rod
15 Blagojevich and others discussed a possible
16 appointment to the Senate seat based on
17 considerations other than financial gain
18 for Rod Blagojevich and his family,
19 discussions which took place with greater
20 frequency after efforts to arrange for a
21 private job for Rod Blagojevich in exchange
22 for appointing a particular candidate to the
23 open Senate seat did not meet with success.
24 As set forth below, more recent discussions

1 focused on an effort to obtain campaign
2 contributions up front in consideration of an
3 appointment -- of an appointment to the Senate.

4 At the time you executed this
5 affidavit, was Paragraph 88 true and accurate to
6 your knowledge?

7 A. Yes, it was.

8 Q. So now we're going to go to a series of
9 intercepted conversations, to summaries, and --
10 and some quotations of those conversations.
11 I'm going to take you first to Paragraph 89.

12 On November 3rd, 2008, Rod -- I'm
13 going to stop for a second, if I could.

14 HOUSE PROSECUTOR ELLIS: Your Honor, as
15 we now start to get into some of these
16 statements, we are going to be using some of the
17 demonstrative exhibits that have been admitted
18 into evidence.

19 If it pleases the Court and the Body,
20 our intention was to just put them up at the
21 time that these statements are being read in.
22 I can stop each time and seek leave, if you prefer.
23 It's really your choice, but I think we are
24 prepared to put them up as we go. And these...

1 CHIEF JUSTICE FITZGERALD: Proceed
2 as you've -- you have indicated.

3 HOUSE PROSECUTOR ELLIS: Okay. Thank
4 you very much, your Honor. Thank you.

5 BY HOUSE PROSECUTOR ELLIS:

6 Q. I'm going to start again with Paragraph 89.
7 On -- yeah, Paragraph 89:

8 On November 3rd, 2008, Rod Blagojevich
9 talked with Deputy Governor A. This discussion
10 occurred the day before the United States
11 Presidential election. Rod Blagojevich and
12 Deputy Governor A discussed the potential Senate
13 seat vacancy. During the conversation, Rod
14 Blagojevich told Deputy Governor A that if he is
15 not going to get anything of value for the open
16 Senate seat, then Rod Blagojevich will take the
17 Senate seat himself: quote, If they're not going
18 to offer anything of any value, then I might just
19 take it.

20 Agent Cain, was that paragraph true
21 and accurate at the time you executed this
22 affidavit?

23 A. Yes, it was.

24 Q. Paragraph 90. Later on November 3rd,

1 2008, Rod Blagojevich spoke with Advisor A.
2 By this time, media reports indicated that
3 Senate Candidate 1, an advisor to the
4 President-elect, was interested in the Senate
5 seat if it became vacant, and was likely to
6 be supported by the President-elect. During
7 the call, Rod Blagojevich stated, quote,
8 unless I get something real good for
9 Senate Candidate 1, blank, I'll just send
10 myself, you know what I'm saying. Rod
11 Blagojevich later stated, quote, I'm going
12 to keep this Senate option for me a real
13 possibility, you know, and therefore I can
14 drive a hard bargain. You hear what I'm
15 saying. And if I don't get what I want
16 and I'm not satisfied with it, then I'll
17 just take the Senate seat myself, close
18 quote. Later, Rod Blagojevich stated
19 that the Senate seat is a -- let me
20 start that over. Later, Rod Blagojevich
21 stated that the Senate seat, quote, is
22 a F-ing valuable thing, you just don't
23 give it away for nothing, close
24 quote.

1 Agent Cain, was that paragraph true and
2 accurate to the best of your knowledge and
3 belief at the time you executed this affidavit?

4 A. Yes, it was.

5 Q. Paragraph 91. On November 4th, 2008,
6 Rod Blagojevich spoke with Deputy Governor A.
7 This was the same day as the United States
8 Presidential election. With respect to the
9 Senate seat, Deputy Governor A suggested putting
10 together a list of things that Rod Blagojevich
11 would accept in exchange for the Senate seat.
12 Rod Blagojevich responded that the list, quote,
13 can't be in writing, close quote. Thereafter,
14 Rod Blagojevich discussed whether he could
15 obtain an ambassadorship in exchange for the
16 Senate seat.

17 Agent Cain, was that paragraph true
18 and accurate at the time you executed this
19 affidavit?

20 A. Yes, it was.

21 Q. Okay. We're going to stay on November
22 4th in Paragraph 92.

23 On November 4th, 2008, Rod Blagojevich
24 spoke with John Harris regarding the potential

1 vacant Senate seat. Rod Blagojevich stated that
2 the, quote, trick is how do you conduct indirectly
3 a negotiation, close quote, for the Senate seat.
4 Thereafter, Rod Blagojevich analogized his
5 situation to that of a sports agent shopping
6 a potential free agent to various teams,
7 stating, quote, how much are you offering,
8 President-elect? What are you offering,
9 Senate Candidate 2? Can always go to Senate
10 Candidate 3. Later Rod Blagojevich stated
11 that he will make a decision on the Senate
12 seat, quote, in good faith, but it is not
13 coming for free. It's got to be good stuff
14 for the people of Illinois and good for me,
15 close quote. Rod Blagojevich states,
16 quote, President-elect, you want it?
17 Fine. But, it's got to be good or I
18 could always take the Senate seat,
19 close quote.

20 Agent Cain, was Paragraph 92 true and
21 accurate at the time you executed this
22 affidavit?

23 A. Yes, it was.

24 Q. We're going to move to the following

1 day now, November 5th, 2008, Paragraph 93.

2 On November 5th, 2008, Rod Blagojevich
3 spoke with Deputy Governor A regarding positions
4 that Rod Blagojevich might be able to obtain in
5 exchange for the soon-to-be vacated Senate seat.
6 Among the potential positions discussed were
7 Secretary of Health and Human Services and
8 various ambassadorships. Deputy Governor A
9 noted that the cabinet position of Secretary
10 of the Energy is, quote, the one that makes
11 the most money, close quote. Deputy
12 Governor A stated that it is hard not to
13 give the Secretary of Energy position to
14 a Texan, but with Rod Blagojevich's coal
15 background it might be a possibility.

16 Was Paragraph 93 true and accurate
17 to the best of your knowledge at the time you
18 signed this affidavit?

19 A. Yes.

20 Q. Staying on November 5th in
21 Paragraph 94, sir.

22 On November 5th, 2008, Rod
23 Blagojevich spoke with John Harris regarding
24 what Rod Blagojevich could obtain for the Senate

1 seat. After discussing various federal
2 governmental positions that Rod Blagojevich
3 would trade the Senate seat for, Rod Blagojevich
4 asked about, quote, the private sector, close
5 quote, and whether the President-elect could,
6 quote, put something together there, something
7 big, close quote. Thereafter, Harris suggested
8 that the President-elect could make Rod
9 Blagojevich the head of a private foundation.
10 Rod Blagojevich told Harris that he should do,
11 quote, homework, close quote, on private
12 foundations, quote, right away, close quote.
13 Rod Blagojevich asked whether he could
14 get a high-ranking position at the Red Cross.
15 Harris stated that, quote, it's got to be a
16 group that is dependent on the President-elect,
17 close quote, and that a President probably could
18 not influence the Red Cross. Rod Blagojevich
19 told Harris to, quote, look into all of those,
20 close quote.

21 Agent Cain, was that paragraph true and
22 accurate at the time you signed this affidavit?

23 A. Yes, it was.

24 Q. Staying on November 5th, Paragraph 95.

1 On November 5th, 2008, Rod Blagojevich
2 talked with John Harris and Deputy
3 Governor A. They discussed potential
4 private foundations with which Rod
5 Blagojevich might be able to get a position
6 in exchange for filling the Senate seat
7 and, in particular, those foundations that are,
8 quote, heavily dependent on federal aid, close
9 quote, and which, therefore, the White House
10 would have the most, quote, influence on. Rod
11 Blagojevich wanted to know how much the
12 positions being discussed pay.

13 Was Paragraph 95 true and accurate at
14 the time you signed this affidavit, sir?

15 A. Yes, it was.

16 Q. Staying on November 5th, in Paragraph 96.

17 On November 5th, 2008, Rod Blagojevich
18 talked with Advisor A about the Senate seat.
19 During the call, Rod Blagojevich stated that
20 the President-elect can remove somebody from a
21 foundation and give the spot to Rod Blagojevich.
22 In regards to the Senate seat, Rod Blagojevich
23 stated, quote, I've got this thing and it's

1 F-ing golden, and, uh, uh, I'm just not
2 giving it up for F-in' nothing. I'm not
3 gonna do it. And, and I can always use it.
4 I can parachute me there, close quote.

5 Agent, was Paragraph 96 true and
6 accurate at the time you executed this
7 affidavit?

8 A. Yes.

9 Q. I'm going to jump to November 7th,
10 which is Paragraph 98.

11 On November 7th, Rod --I'm sorry.
12 On November 7th, 2008, Rod Blagojevich
13 talked with Advisor A about the Senate seat.
14 Rod Blagojevich said that he is willing to,
15 quote, trade, close quote, the Senate seat to
16 Senate Candidate 1 in exchange for the position
17 of Secretary of Health and Human Services in the
18 President-elect's cabinet.

19 Agent Cain, was Paragraph 98 true and
20 accurate at the time you signed this affidavit?

21 A. Yes, it was.

22 Q. Staying on November 7th in Paragraph 99.

23 Later on November 7th, 2008, Rod
24 Blagojevich discussed the open Senate seat in a

1 three-way call with John Harris and Advisor B,
2 a Washington, D.C.-based consultant. Rod
3 Blagojevich indicated in the call that if
4 he was appointed as Secretary of Health
5 and Human Services by the President-elect,
6 then Rod Blagojevich would appoint Senate
7 Candidate 1 to the open Senate seat.
8 Harris stated, quote, we wanted our ask
9 to be reasonable and rather than make it
10 look like some sort of selfish grab for a
11 quid pro quo. Rod Blagojevich stated that
12 he needs to consider his family and that he
13 is, quote, financially, close quote, hurting.
14 Harris said that they are considering what
15 will help the, quote, financial security
16 of the Blagojevich family and what will keep
17 Rod Blagojevich, quote, politically viable.
18 Rod Blagojevich stated, quote, I want to
19 make money, close quote. During the call,
20 Rod Blagojevich, Harris, and Advisor B
21 discussed the prospect of working a
22 three-way deal for the open Senate seat.
23 Harris noted that Rod Blagojevich is interested
24 in taking a high-paying position with an

1 organization called "Change to Win," which is
2 connected to Service Employees International
3 Union, or SEIU.

4 Agent, was paragraph -- I'm sorry.
5 I have to keep going. Continuing on with
6 Paragraph 99.

7 Harris suggested that SEIU
8 Official make Rod Blagojevich the head
9 of Change to Win and, in exchange, the
10 President-elect could help Change to Win
11 with its legislative agenda on a national
12 level. Advisor B asked why SEIU Official
13 cannot just give the job to Rod Blagojevich.
14 Harris responded that it would be just
15 a big, quote, give away for SEIU Official
16 and Change to Win since there are already
17 individuals on the Change to Win payroll doing
18 the functions of the position that would be
19 created for Rod Blagojevich. Harris said
20 that Change to Win will want to trade the
21 job for Rod Blagojevich for something from
22 the President-elect. Harris suggested a,
23 quote, three-way deal, close quote, and
24 explained that a three-way deal like the

1 one discussed would give the President-elect
2 a, quote, buffer so there is no obvious quid pro
3 quo for Senate Candidate 1. Rod Blagojevich
4 stated that for him to give up the governorship
5 for the Change to Win position, the Change to
6 Win position must pay a lot more than he is
7 getting paid right now. Advisor B stated
8 that he liked the idea of the three-way
9 deal. Rod Blagojevich stated that he is
10 interested in making \$250,000 to \$300,000
11 and being on some organization boards.
12 Advisor B stated -- I'm sorry.
13 Advisor B said they should leverage the
14 President-elect's desire to have Senate
15 Candidate 1 appointed to the Senate seat in
16 order to get a head position with Change to
17 Win and a salary. Advisor B agreed that the
18 three-way deal would be a better plan than Rod
19 Blagojevich appointing Senate Candidate 2 to
20 the Senate and getting more done as Governor.
21 I believe there's also a footnote here
22 that says that -- which I will read: Open

1 source information indicates that Change
2 to Win is an organization affiliated with
3 seven unions, including SEIU, and appears
4 to be focused on having the affiliated
5 unions work together on matters of common
6 interest. SEIU Official is affiliated with
7 SEIU.

8 Was Paragraph 99 true and accurate at
9 the time you signed this affidavit, Agent?

10 A. Yes, it was.

11 HOUSE PROSECUTOR ELLIS: I would also
12 state to the Members that we did introduce an
13 explanatory exhibit with regard to Change to
14 Win, an explanatory couple of pages from their
15 website that should be in your packet.

16 BY HOUSE PROSECUTOR ELLIS:

17 Q. Turning to November 8th -- and this
18 will be Paragraph 100, Agent and the Members.

19 On November 8th, 2008, Rod Blagojevich
20 talked with John Harris about the Senate seat.
21 During the conversation, Rod Blagojevich and
22 Harris discussed whether it would be possible to
23 obtain a financial benefit for Rod Blagojevich's
24 wife in relation to the Senate seat. Specifically,

1 Rod Blagojevich referred to his wife's Series 7
2 license and asked, quote, is there a play here,
3 with these guys, with her, close quote, to work
4 for a firm in Washington or New York at a
5 significantly better salary than she is making
6 now. Also, Rod Blagojevich wanted to know
7 whether SEIU could do something to get his wife
8 a position at Change to Win until Rod
9 Blagojevich could take the position at Change --
10 until Rod Blagojevich could take a position at
11 Change to Win.

12 Was Paragraph 100 true and accurate at
13 the time you signed this affidavit, sir?

14 A. Yes, it was.

15 Q. Moving to a -- an intercepted conversation
16 on November 10th, and this is Paragraph 101.

17 On November 10th, 2008, Rod Blagojevich,
18 his wife, John Harris, Governor General Counsel,
19 and various Washington, D.C.-based advisors,
20 including Advisor B, discussed the open Senate
21 seat during a conference call. The Washington,
22 D.C.-based advisors to Rod Blagojevich are
23 believed to have participated on this call
24 from Washington, D.C. Various individuals

1 participated at different times during the
2 call. The call lasted for approximately two
3 hours, and what follows are simply summaries
4 of various portions of the two-hour call.

5 Subparagraph a. Rod Blagojevich
6 expressed his interest in figuring out a way to
7 make money and build some financial security,
8 while at the same time potentially participating
9 in the political arena again. Rod Blagojevich
10 mentioned the Senate seat, the dynamics of a
11 new Presidential administration with the strong
12 contacts that Rod Blagojevich has in it, and
13 asked what if anything he can do to make that
14 work for him and his wife and his
15 responsibilities as Governor of Illinois.
16 Rod Blagojevich suggested during the call that
17 he could name himself to the open Senate seat
18 to avoid impeachment by the State of Illinois
19 legislature. Rod Blagojevich agreed it was
20 unlikely that the President-elect would
21 name him Secretary of Health and Human
22 Services or give him an ambassadorship
23 because of all of the negative publicity

1 surrounding Rod Blagojevich.

2 b. Rod Blagojevich asked what
3 he can get from the President-elect for the
4 Senate seat. Rod Blagojevich stated that
5 Governor General Counsel believes the
6 President-elect can get Rod Blagojevich's
7 wife on paid corporate boards in exchange
8 for naming the President-elect's pick to the
9 Senate. Governor General Counsel asked, quote,
10 can the President-elect help in the private
11 sector where it wouldn't be tied to him? I mean,
12 so it wouldn't necessarily look like one for the
13 other, close quote. Rod Blagojevich's wife
14 suggested during the call that she is qualified
15 to sit on corporate boards and has a background
16 in real estate and appraisals. Rod Blagojevich
17 asked whether there is something that could be
18 done with his wife's Series 7 license in terms
19 of working out a deal for the Senate seat. Rod
20 Blagojevich stated that he is, quote, struggling
21 financially -- struggling, close quote, financially
22 and does, quote, not want to be Governor for the
23 next two years, close quote.

24 c. Rod Blagojevich said that the

1 consultants - Advisor B and another consultant
2 are believed to be on the call at that time - are
3 telling him that he has to, quote, suck it up
4 for two years and do nothing and give this
5 blank, referring to the President-elect, his
6 Senator. F him. For nothing? F him, close quote.
7 Rod Blagojevich states that he will put Senate
8 Candidate 4 in the Senate before I just give
9 F-ing Senate Candidate 1 an F-ing Senate
10 seat and I don't get anything, close quote.
11 Senate Candidate 4 is a Deputy Governor
12 of the State of Illinois. Rod Blagojevich
13 stated that he needs to find a way to take
14 the, quote, financial stress, close quote,
15 off of his family and that his wife is as
16 qualified or more -- or more qualified than
17 another specifically named individually to sit
18 on corporate boards. According to Rod Blagojevich,
19 quote, the immediate challenge is how do we take
20 some of the financial pressure off of our family,
21 close quote. Later in the phone call, Rod
22 Blagojevich stated that absent getting something
23 back, Rod Blagojevich will not pick Senate
24 Candidate 1. Harris restated Rod Blagojevich's

1 thoughts that they should ask the
2 President-elect for something for Rod
3 Blagojevich's financial security as well as
4 maintain his political viability. Harris
5 said they could work out a three-way deal with
6 SEIU and the President-elect where SEIU could
7 help the President-elect with Rod Blagojevich's
8 appointment of Senate Candidate 1 to the vacant
9 Senate seat, Rod Blagojevich would obtain a
10 position as the National Director of the Change
11 to Win campaign, and SEIU would get something
12 favorable from the President-elect in the future.

13 d: One of Rod Blagojevich's advisors
14 said he likes the idea, it sounds like a good
15 idea, but advised Rod Blagojevich to be leery of
16 promises for something two years from now. Rod
17 Blagojevich's wife said they would take the job
18 now. Thereafter, Rod Blagojevich and others
19 on the phone call discussed various ways Rod
20 Blagojevich can, quote, monetize, close quote,
21 the relationships he is making as Governor to
22 make money after Rod Blagojevich is no longer
23 Governor.

24 Agent, was all of this Paragraph 101

1 true and accurate at the time you signed this
2 affidavit, sir?

3 A. Yes, it was.

4 Q. I believe we're staying on the date of
5 November 10th, another intercepted phone
6 conversation, Paragraph 102.

7 Later on November 10th, Rod Blagojevich
8 and Advisor A discussed the open Senate seat.
9 Among other things, Rod Blagojevich raised the
10 issue of whether the President-elect could help
11 get Rod Blagojevich's wife on, quote, paid
12 corporate boards right now, close quote.
13 Advisor A responded that he, quote,
14 thinks they could, close quote, and that,
15 quote, a President-elect can do almost
16 anything he sets his mind to, close quote.
17 Rod Blagojevich states that he will appoint,
18 quote, Senate Candidate 1, but if they feel
19 like they can do this and not F-ing give me
20 anything, then I'll F-ing go Senate Candidate
21 5, close quote. Senate Candidate 5 is publicly
22 reported to be interested in the open Senate
23 seat. Rod Blagojevich stated that if his wife
24 could get on some corporate boards and, quote,

1 picks up another 150 grand a year or whatever,
2 close quote, it would help Rod Blagojevich get
3 through the next several years as Governor.

4 Agent, was this paragraph true and
5 accurate at the time you signed this affidavit?

6 A. Yes.

7 Q. I'm going to jump to November 11th now,
8 Paragraph 104.

9 On November 11th, 2008, Rod Blagojevich
10 talked with John Harris about the Senate seat.
11 Rod Blagojevich suggested starting a 501(c)(4)
12 organization, a nonprofit organization that may
13 engage in political activity and lobbying, and
14 getting, quote, his - and this is believed to be
15 the President-elect's - his friend Warren Buffett
16 or some of those guys to help us on something
17 like that, close quote. Harris asked, quote,
18 what, for you, close quote. Rod Blagojevich
19 replied, "yeah." Later in the conversation, Rod
20 Blagojevich stated that if he appoints Senate
21 Candidate 4 to the Senate seat and, thereafter, it
22 appears that Rod Blagojevich might get impeached,
23 he could, quote, count on Senate Candidate 4, if
24 things got hot, to give the Senate seat up and

1 let me parachute over there, close quote.
2 Harris said, quote, you can count on
3 Senate Candidate 4 to do that, close quote.
4 Later in the conversation, Rod Blagojevich
5 said he knows that the President-elect wants
6 Senate Candidate 1 for the Senate seat, but,
7 quote, they're not willing to give me anything
8 except appreciation. F them, close quote.

9 Agent, was Paragraph 104 true and
10 accurate at the time you executed this affidavit?

11 A. Yes, it was.

12 Q. Paragraph 105. We're staying on
13 November 11th, another intercepted phone
14 conversation that day.

15 105. Later on November 11th, 2008,
16 Rod Blagojevich talked with Advisor A. Advisor
17 A indicated that he will stay, quote, on top of
18 getting the Senate Candidate 5 information
19 leaked to the particular Sun-Times columnist.
20 Rod Blagojevich again raised the idea of the
21 501(c)(4) organization and asked whether, quote,
22 they - believed to be the President-elect and
23 his associates - can get Warren Buffett and
24 others to put 10, 12 or \$15 million into that

1 organization. Advisor A responded that "they"
2 should be able to find a way to fund the
3 organization. Later in the conversation, Rod
4 Blagojevich returned to the issue of the
5 501(c)(4) organization and noted that he is
6 looking for 10, 15, \$20 million in an
7 organization like that. That was -- I'm
8 sorry -- a quote. Quote, 10, 15, 20 million
9 in an organization like that, close quote.
10 Rod Blagojevich said that when he is, quote,
11 no longer Governor, close quote, he could go
12 over to that organization. Rod Blagojevich
13 said that, quote, Senate Candidate 6 - Senate
14 Candidate 6, based on other intercepted
15 conversations is believed to be a wealthy -- a
16 wealthy person from Illinois - Senate Candidate 6,
17 quote, could raise me money like that for a Senate
18 seat, close quote. Rod Blagojevich asked, "if I get
19 Senate Candidate 6 to do something like that, is
20 it worth giving him the Senate seat?" Advisor A
21 responded that it would be hard to put Senate
22 Candidate 6 in the Senate seat. Rod Blagojevich
23 said that it would be better than putting Senate
24 Candidate 1 in the Senate and not getting anything

1 back. Later in the conversation, Rod
2 Blagojevich and Advisor A again discussed the
3 possibility of a 501(c)(4) organization, and Rod
4 Blagojevich again noted that, quote, Senate
5 Candidate 6 could, quote, do it. Rod
6 Blagojevich and Advisor A discussed who
7 might be close to Senate Candidate 6 to talk
8 with him about the issue, because Rod Blagojevich
9 did not, quote, want to be the one to ask
10 something like that, close quote. Advisor A
11 agreed to find out who was close to Senate
12 Candidate 5 {sic}.

13 Agent, was Paragraph 105 true and
14 accurate at the time you signed this affidavit?

15 A. Yes, it was.

16 Q. Moving to November 12th, an intercepted
17 conversation between the Governor and his chief
18 of staff, Paragraph 106.

19 On November 12th, 2008, Rod Blagojevich
20 talked with John Harris. Rod Blagojevich noted
21 that CNN is reporting that Senate Candidate 1
22 does not want the open Senate seat. Harris said,
23 "That is just a tactic." Rod Blagojevich raised
24 the issue of the 501(c)(4) organization and that

1 contributors and others can put, quote, 10 to
2 15 million in it so I can advocate health care
3 and other issues I care about and help them,
4 while I stay as Governor, she's - believed to
5 be Senate Candidate 1 - a Senator, close quote.
6 Rod Blagojevich noted that the President-elect can
7 ask Warren Buffett, Bill Gates, and others for money
8 for that organization. Rod Blagojevich states he
9 will ask, quote, Senate Candidate 6 to help fund it
10 as well. Harris said that funding the 501(c)(4)
11 would be a lot easier for the President-elect
12 than appointing Rod Blagojevich to a position.
13 Rod Blagojevich said, quote, They could say, hey,
14 we get Senate Candidate 1. Let's help this guy
15 have a 501(c)(4) issue advocacy organization.
16 Let's fund it to the level he's asked for, and
17 then we'll get Senate Candidate 1, close quote.
18 Rod Blagojevich said that he will control the
19 501(c) {sic} organization through a board of
20 directors while he is Governor, and then a
21 position in the 501(c)(4) would be waiting for
22 him when he was no longer Governor.

23 Was Paragraph 106 true and accurate at
24 the time you signed this affidavit, Agent Cain?

1 A. Yes, it was.

2 Q. Staying on November 12th, Paragraph 107,
3 another intercepted conversation.

4 On November 12, 2008, Rod Blagojevich talked
5 with Advisor B. Rod Blagojevich discussed with
6 Advisor B his ideas for a 501(c)(4) organization.
7 Advisor B stated that he likes the idea, but liked
8 the Change to Win option better because, according to
9 Advisor B, from the President-elect's perspective,
10 there would be fewer, quote, fingerprints on the
11 President-elect's involvement with Change to Win
12 because Change to Win already has an existing
13 stream of revenue and, therefore, quote, you
14 won't have stories in four years that they
15 bought you off, close quote. Rod Blagojevich
16 said that he likes the 501(c)(4) idea because he
17 knows it will be there in two years when he is no
18 longer Governor, whereas Change to Win might not be.

19 Agent, was Paragraph 107 true and
20 accurate at the time you signed this affidavit?

21 A. Yes.

22 Q. Paragraph 108, staying on the same
23 date, November 12th.

24 On November 12th, 2008, Rod

1 Blagojevich talked with one of his Washington,
2 D.C.-based advisors. Rod Blagojevich explained
3 the 501(c) {sic} organization idea to the advisor,
4 and that, quote, the President-elect gets these
5 Warren Buffett types to fund it, close quote.
6 The advisor asked Rod Blagojevich if the 501(c) (4)
7 is a real effort or just a vehicle to help Rod
8 Blagojevich. Rod Blagojevich stated that it is a
9 real effort but also a place for Rod Blagojevich
10 to go when he is no longer Governor. The advisor
11 said he likes the Change to Win idea better, and
12 notes that it is more likely to happen because it
13 is one step removed from the President-elect.

14 Agent, was that paragraph true at the
15 time you signed the affidavit?

16 A. Yes.

17 Q. Okay. Staying on November 12th,
18 Paragraph 109.

19 On November 12th, 2008, Rod
20 Blagojevich spoke with SEIU Official, who was in
21 Washington, D.C. Prior intercepted phone
22 conversations indicate that approximately a
23 week before this call, Rod Blagojevich met with
24 SEIU Official to discuss the vacant Senate seat,

1 and Rod Blagojevich understood that SEIU Official
2 was an emissary to discuss Senate Candidate 1's
3 interest in the Senate seat. During the conversation
4 with SEIU Official on November 12th, 2008, Rod
5 Blagojevich informed SEIU Official that he had
6 heard the President-elect wanted persons other than
7 Senate Candidate 1 to be considered for the Senate
8 seat. SEIU Official stated that he would find out
9 if Senate Candidate 1 wanted SIU {sic} Official
10 to keep pushing her for Senator with Rod
11 Blagojevich. Rod Blagojevich said that, quote,
12 one thing I'd be interested in, close quote, is
13 a 501(c)(4) organization. Rod Blagojevich
14 explained the 501(c)(4) idea to SEIU Official
15 and said that the 501(c)(4) could help, quote,
16 our new Senator, Senate Candidate 1. SEIU
17 Official agreed to, quote, put that flag up
18 and see where it goes, close quote.

19 Was Paragraph 109 true and accurate,
20 Agent, at the time you signed the affidavit?

21 A. Yes, it was.

22 Q. Okay. A follow-up conversation on
23 November 12th is in Paragraph 110.

24 On November 12th, 2008, Rod Blagojevich

1 talked with Advisor B. Rod Blagojevich told
2 Advisor B that he told SEIU Official, quote,
3 I said go back to Senate Candidate 1, and say,
4 hey, look, if you still want to be a Senator don't
5 rule this out and then broach the idea of this
6 501(c)(4) with her, close quote.

7 Agent, was that paragraph true and
8 accurate at the time you signed the affidavit?

9 A. Yes.

10 Q. Paragraph 111, also on November 12th.

11 Later on November 12th, 2008, Rod
12 Blagojevich talked with John Harris. Rod
13 Blagojevich stated that his decision about the
14 open Senate seat will be based on three criteria
15 in the following order of importance: quote, our
16 legal situation, our personal situation, my
17 political situation. This decision, like every
18 other one, needs to be based upon that. Legal.
19 Personal. Political, close quote. Harris said,
20 quote, legal is the hardest one to satisfy. Rod
21 Blagojevich said that his legal problems could be
22 solved by naming himself to the Senate seat.

23 Agent Cain, was Paragraph 111 true and
24 accurate to the best of your knowledge and

1 belief at the time you signed this affidavit?

2 A. Yes, it was.

3 Q. Moving to Paragraph 112 and -- and the date of
4 November 13th.

5 On November 13th, 2008, Rod Blagojevich talked
6 with John Harris. Rod Blagojevich said he wanted to be
7 able to call, quote, President-elect Advisor and tell
8 President-elect Advisor that, quote, this has nothing
9 to do with anything else we're working on but the
10 Governor wants to put together a 501(c)(4) and, quote,
11 can you guys help him raise 10, 15 million? Rod
12 Blagojevich said he wanted President-elect Advisor
13 to get the word today. That's a quote, President-elect
14 Advisor to get the word today, close quote, and that when,
15 quote, he asks me for the Fifth CD thing, I want it to be
16 in his head. In a parenthetical, the reference to the
17 Fifth CD thing is believed to relate to a seat in the
18 United States House of Representatives from Illinois'
19 Fifth Congressional District. Prior intercepted phone
20 conversations indicate that Rod Blagojevich and others
21 were determining whether Rod Blagojevich has the power
22 to appoint an interim replacement until a special
23 election for the seat can be held, close parenthesis.

24 Was Paragraph 112 true and accurate to the

1 best of your knowledge and belief, Agent Cain?

2 A. Yes.

3 Q. Paragraph 114, also on November 13th --
4 I'm sorry. Paragraph 113.

5 Also on November 13th, 2008, Rod
6 Blagojevich talked with Advisor A. Rod
7 Blagojevich said he wants the idea of the
8 501(c)(4) in President-elect Advisor's head,
9 but not in connection with the Senate appointment
10 or the congressional seat. Advisor A stated --
11 asked whether the conversation about the
12 501(c)(4) with President-elect Advisor is
13 connected with anything else. Rod Blagojevich
14 replied that, quote, it's unsaid. It's unsaid,
15 close quote.

16 Agent, was Paragraph 13 {sic} true and
17 accurate at the time you signed this affidavit?

18 A. Yes, it was.

19 Q. Thank you.

20 Paragraph 114. Later on November 13th,
21 2008, Rod Blagojevich spoke with Advisor A. Rod
22 Blagojevich asked Advisor A to call Individual A
23 and have Individual A pitch the idea of the
24 501(c)(4) to President-elect Advisor. Advisor

1 said while it's not, quote -- let me start that over.
2 Advisor A said that, quote, while it's not said
3 this is a play to put in play other things, close
4 quote. Rod Blagojevich responded, quote, correct.
5 Advisor A asked if this is, quote, because we think
6 there's still some life in Senate Candidate 1
7 potentially? Rod Blagojevich said, quote, not
8 so much her, but possibly her. But others.

9 Was Paragraph 114 true and accurate at
10 the time you signed this affidavit?

11 A. Yes.

12 Q. Now I'm going to turn to Paragraph 115
13 which has several sub-parts.

14 Paragraph 115. Throughout the past
15 month, Rod Blagojevich has continued to engage
16 in numerous conversations relating to filling
17 the open Senate seat. In these conversations,
18 he has repeatedly discussed the attributes of
19 potential candidates, including, among other
20 things, the candidates' ability to benefit the
21 State of Illinois, and the personal and political
22 benefits for himself and his family of
23 appointing particular candidates. These calls
24 have included the following:

1 a. On December 4th, 2008, Rod Blagojevich
2 spoke to Advisor B and informed Advisor B that
3 he was giving Senate Candidate 5 greater
4 consideration for the Senate seat because,
5 among other things, if Rod Blagojevich ran for
6 re-election Senate Candidate 5 would, quote,
7 raise money for Rod Blagojevich, although Rod
8 Blagojevich said he might, quote, get some
9 money up front, maybe from Senate Candidate 5 to
10 insure Senate Candidate 5 kept his promise about
11 raising money for Rod Blagojevich. Parenthesis,
12 in a recorded conversation on October 31, 2008,
13 Rod Blagojevich described an earlier approach by
14 an associate of Senate Candidate 5 as follows:
15 Quote, We were approached 'pay to play'. That,
16 you know, he'd raise me 500 grand. An emissary
17 came. Then the other guy would raise a million,
18 if I made him, Senate Candidate 5, a Senator.

19 Subparagraph b. Later on December 4th,
20 2008, Rod Blagojevich spoke to Fundraiser A.
21 Rod Blagojevich stated he was, quote, elevating
22 Senate Candidate 5 on the list of candidates for
23 the open Senate seat. Rod Blagojevich stated
24 he might be able to cut a deal with Senate

1 Candidate 5 that provided Rod Blagojevich with
2 something quote, tangible up front, close quote.
3 Rod Blagojevich noted he was going to meet with
4 Senate Candidate 5 in the next few days. Rod
5 Blagojevich told Fundraiser A to reach out to
6 Individual D, an individual who Rod Blagojevich
7 is attempting to obtain campaign contributions from
8 and who, based on other intercepted phone calls,
9 Rod Blagojevich believes to be close to Senate
10 Candidate 5. Rod Blagojevich told Fundraiser A
11 to tell Individual D that Senate Candidate 5 was
12 very much a realistic candidate for the open
13 Senate seat, but that Rod Blagojevich was
14 getting, quote, a lot of pressure not to
15 appoint Senate Candidate 5. Rod Blagojevich
16 told Fundraiser A to tell Individual D that Rod
17 Blagojevich had a problem with Senate Candidate 5
18 just promising to help Rod Blagojevich because Rod
19 Blagojevich had a prior bad experience with Senate
20 Candidate 5 not keeping his word. Rod Blagojevich
21 told Fundraiser A to tell Individual D that if
22 Senate Candidate 5 is going to be chosen to fill the
23 Senate seat, quote, some of this stuff's gotta start
24 happening now, right now, and we gotta see it.

1 You understand? Close quote. Rod Blagojevich told
2 Fundraiser A that, quote, you gotta be careful how
3 you express that and assume everybody is listening,
4 the whole world is listening. You hear me? Close
5 quote. Rod Blagojevich told Fundraiser A to tell
6 Individual D if there is, quote, tangible political
7 support, campaign contributions, like you've said,
8 start showing us now, close quote. Fundraiser A
9 stated he will call Individual D on the phone to
10 communicate Rod Blagojevich's message. Rod
11 Blagojevich responded that, quote, I would do it
12 in person. I would not do it on the phone. Rod
13 Blagojevich told Fundraiser A to communicate the
14 urgency of the situation to Individual D.

15 c. On December 5th --

16 HOUSE PROSECUTOR ELLIS: Excuse me. If
17 I could stop for a moment.

18 I apologize.

19 BY HOUSE PROSECUTOR ELLIS:

20 Q. Subparagraph c. On December 5th, 2008,
21 Rod Blagojevich spoke to Fundraiser A. On the
22 morning of December 5th, 2008, the Chicago
23 Tribune ran a front-page news story stating that
24 Rod Blagojevich had recently been surreptitiously

1 recorded in relation to an ongoing criminal
2 investigation. During the conversation on
3 December 5th, 2008, Rod Blagojevich and
4 Fundraiser A discuss certain information
5 contained in that newspaper story. Rod
6 Blagojevich instructed Fundraiser A to,
7 quote, undo your Individual D thing, close
8 quote. Fundraiser A confirmed that it would
9 be undone.

10 d. Also on December 5th, 2008, after
11 publication of the Tribune article described
12 above, Rod Blagojevich and three others
13 discussed whether to move money out of the
14 Friends of Blagojevich campaign fund to avoid
15 having the money frozen and also considered the
16 possibility of prepaying the money to Rod
17 Blagojevich's criminal defense attorney with an
18 understanding that the attorney would donate the
19 money back at a later time if it was not needed.
20 They also discussed opening a new fund raising
21 account named Citizens For Blagojevich with new
22 contributions received.

23 Agent Cain, was everything in
24 Paragraph 115 true and accurate to the best of

1 your knowledge and belief at the time you signed
2 this affidavit?

3 A. Yes, it was.

4 Q. And the final paragraph related to the
5 Senate seat, Paragraph 116.

6 In addition, in the
7 course of the conversations over the last month,
8 Rod Blagojevich has spent significant time
9 weighing the option of appointing himself to the
10 open Senate seat, and has expressed a variety of
11 reasons for doing so, including frustration at
12 being, quote, stuck, close quote, as Governor,
13 a belief that he will be able to obtain greater
14 resources if he is indicted as a sitting
15 Senator as opposed to a sitting governor, and a
16 desire to remake his image in consideration of a
17 possible run for President in 2016, avoid
18 impeachment by the Illinois legislature, make
19 corporate contacts that would be of value to him
20 after leaving public office, facilitate his
21 wife's employment as a lobbyist, and assist in
22 generating speaking fees should he decide to
23 leave public office.

24 Agent Cain, was that paragraph true and

1 accurate at the time you signed this affidavit?

2 A. Yes, it was.

3 Q. At this point, I would like to shift
4 topics and move to information regarding the
5 Tribune Company. I'm going to be directing your
6 attention to Paragraph 70.

7 HOUSE PROSECUTOR ELLIS: And -- and just
8 for the record, the Members are receiving copies
9 of Tribune articles right now. They've already
10 been admitted into evidence. It's a series of
11 editorials from the Tribune criticizing the
12 Governor.

13 CHIEF JUSTICE FITZGERALD: Would you
14 like a moment of ease?

15 HOUSE PROSECUTOR ELLIS: That would be
16 fine, your Honor. Absolutely.

17 CHIEF JUSTICE FITZGERALD: Take five
18 -- five minute moment at ease. Five moments.

19 (Whereupon, a short break was
20 taken.)

21 CHIEF JUSTICE FITZGERALD: Senate is
22 back in Session. Counsel, you may proceed.

23 HOUSE PROSECUTOR ELLIS: Thank you very
24 much, your Honor.

1 We are now turning to the allegations
2 related to the Tribune Company.

3 BY HOUSE PROSECUTOR ELLIS:

4 Q. I'm going to begin with Paragraph 70,
5 and that is on Page 41 of the affidavit.

6 Paragraph 70. Media accounts reflect
7 that Tribune Owner, who acquired effective
8 control of the Tribune Company as a result of a
9 financial transaction in 2007, has sought to sell
10 the Chicago Cubs, currently owned by the Tribune
11 Company, and to use the proceeds of that sale to
12 pay debt associated with his acquisition of the
13 Tribune Company. Media accounts also reflect
14 that final bids for the purchase of the Cubs
15 were due by November 26, 2008; that Tribune
16 Owner needs the proceeds from the sale of the
17 Cubs to pay down debt associated with the Tribune
18 Company acquisition; and that a loan agreement
19 relating to his purchase of the Tribune Company
20 may require Tribune Owner to accelerate payments
21 if he is unable to reduce the debt by specified
22 amounts.

23 Agent, was that paragraph true and
24 accurate at the time you executed this

1 affidavit?

2 A. Yes, it was, to the best of my belief
3 and knowledge.

4 Q. Paragraph 71, which I believe is on
5 Page 42.

6 Based on a review of intercepted phone
7 calls, it appears that the Tribune Company, in
8 connection with its efforts to sell the Cubs, has
9 explored the possibility of obtaining financial
10 assistance from the Illinois Finance Authority,
11 or IFA, relating to the financing or sale of
12 Wrigley Field. During the course of this
13 investigation, agents have intercepted a series
14 of communications regarding the efforts of Rod
15 Blagojevich and John Harris to corruptly use the
16 power and influence of the Office of the
17 Governor to cause the firing of Chicago Tribune
18 editorial board members as a condition of State
19 of Illinois financial assistance in connection
20 with Wrigley Field. The phone calls reflect that
21 Rod Blagojevich directed John Harris to inform
22 Tribune Owner and an associate of Tribune Owner,
23 Tribune Financial Advisor - who is believed to be
24 an individual identified in media accounts as a

1 top assistant and financial advisor to Tribune
2 Owner, who played a significant role in Tribune
3 Owner's purchase of the Tribune - that State of
4 Illinois financial assistance for the Tribune --
5 for the Tribune Company's sale of Wrigley Field
6 would not be forthcoming unless members of the
7 Chicago Tribune's editorial board were fired.
8 Set out below are summaries of certain of
9 those conversations. This affidavit does not
10 include all calls dealing with the corrupt
11 efforts of Rod Blagojevich and John Harris to
12 misuse their influence over the expenditure of
13 State funds to cause the firing of employees of
14 the Chicago Tribune editorial board.

15 Was Paragraph 71 true and accurate to
16 the best of your knowledge at the time you
17 executed this affidavit?

18 A. Yes.

19 Q. Turning to Paragraph 72 on Page 43,
20 this will be the first of the intercepted phone
21 conversations -- I apologize -- conversations,
22 phone or otherwise.

23 On the evening of November 3rd, 2008,

1 Rod Blagojevich talked to Deputy Governor A.
2 Rod Blagojevich stated that he was concerned
3 about possibly being impeached in the spring and
4 that the Chicago Tribune will be, quote, driving,
5 close quote, the impeachment discussion. Rod
6 Blagojevich asked Deputy Governor A to check
7 to see if the Tribune has recently, quote,
8 advocated that he be impeached. In fact,
9 the Chicago Tribune recently had published
10 editorials critical of Rod Blagojevich.

11 HOUSE PROSECUTOR ELLIS: And for the
12 record, we have dispatched a number of those
13 editorials for the Senators during the break,
14 and they have all been admitted into the record.
15 BY HOUSE PROSECUTOR ELLIS:

16 Q. Agent, was Paragraph 72 true and
17 accurate to the best of your knowledge at the
18 time you signed this affidavit?

19 A. Yes, it was.

20 Q. Paragraph 73, same date.

21 In another call between Rod Blagojevich
22 and Deputy Governor A that occurred a short time
23 later on November 3rd, 2008, Rod Blagojevich and
24 Deputy Governor A discussed an editorial from the

1 Chicago Tribune regarding the endorsement of
2 Michael Madigan and calling for a committee to
3 consider impeaching Rod Blagojevich. During the
4 call, Rod Blagojevich's wife can be heard in the
5 background telling Rod Blagojevich to tell
6 Deputy Governor A to, quote, hold up that F-ing
7 Cubs, blank. Blank them. Rod Blagojevich -- close
8 quote. Rod Blagojevich asked Deputy Governor A
9 what he thinks of his wife's idea. Deputy
10 Governor A stated that there is a part of what Rod
11 Blagojevich's wife said that he, quote, agrees
12 with, close quote. Deputy Governor A told Rod
13 Blagojevich that Tribune Owner will say that he
14 does not have anything to do with the editorials,
15 quote, but I would tell him, look, if you want to
16 get your Cubs thing done get rid of this Tribune,
17 close quote. Later, Rod Blagojevich's wife
18 got on the phone and, during the continuing
19 discussion of the critical Tribune editorials,
20 stated that Tribune Owner can, quote, just fire
21 the writers because Tribune Owner owns the Tribune.
22 Rod Blagojevich's wife stated that if Tribune
23 Owner's papers were hurting his business, Tribune
24 Owner would do something about the editorial board.

1 Rod Blagojevich then got back on the phone.
2 Rod Blagojevich told Deputy Governor A
3 to put together the articles in the Tribune that
4 are on the topic of removing Rod Blagojevich
5 from office and they will then have someone,
6 like John Harris, go to Tribune Owner and say,
7 quote, We've got some decisions to make now.
8 Rod Blagojevich said that, quote, someone should
9 -- pardon me. Rod Blagojevich said that, quote,
10 Someone should say, get rid of those people.
11 Rod Blagojevich said that he thinks that they
12 should put this all together and then have
13 Harris or somebody go talk to the Tribune owners
14 and say, quote, Look, we've got decisions to
15 make now, moving this stuff forward - believed
16 to be a reference to the IFA helping with the
17 Cubs sale - someone's gotta go to Tribune
18 Owner, we want to see him; it's a political
19 F-ing operation in there, close quote.
20 Deputy Governor A agreed and said that Harris
21 needs to be, quote, sensitive about how he does
22 it. Rod Blagojevich said there's nothing
23 sensitive about how you do it, and that it's,
24 quote, straight forward and you say, quote,

1 We're doing this stuff for you, we believe
2 this is right for Illinois, and this is a big
3 deal to Tribune Owner financially, close
4 quote, but what Rod -- what Rod Blagojevich
5 is doing to help Tribune Owner is the same type
6 of action that the Tribune is saying should be
7 the basis for Rod Blagojevich's impeachment.
8 Rod Blagojevich said Tribune Owner should be
9 told, quote, maybe we can't do this now.
10 Fire those blanks, close quote. Deputy
11 Governor A suggested that Rod Blagojevich say,
12 quote, I'm not sure that we can do this anymore
13 because we've been getting a ton of these editorials
14 that say, look, we're going around the legislature,
15 we gotta stop and this is something the
16 legislature hasn't approved. We don't want to go
17 around the legislature anymore, close quote. Rod
18 Blagojevich agreed and said that he wants Harris
19 to go in and make that case, quote, not me, close
20 quote. Deputy Governor A agreed and said that he
21 likes it. Rod Blagojevich asked Deputy Governor A
22 to put the list of Tribune articles together.

23 Agent, was that paragraph true and
24 accurate to the best of your knowledge at the

1 time you executed this affidavit?

2 A. Yes.

3 Q. Going to take you now to Paragraph
4 74 on Page 45 of your affidavit.

5 During another intercepted call
6 still later on the evening of November 3rd,
7 2008, Rod Blagojevich spoke with Advisor A,
8 a former Deputy Governor under Rod
9 Blagojevich who is currently a lobbyist.
10 Rod Blagojevich stated that he is going
11 to go to Tribune Owner and tell Tribune Owner
12 that Rod Blagojevich will not help Tribune Owner
13 because Tribune Owner's own paper will argue to
14 impeach Rod Blagojevich for his actions in
15 helping Tribune Owner. Rod Blagojevich stated
16 they are going to go to Tribune Owner, quote,
17 before we pull the trigger on this deal, close
18 quote - believed to be a reference to helping
19 Tribune Owner at the IFA.

20 Was Paragraph 74 true and accurate to
21 the best of your belief at the time you -- you
22 signed this affidavit, sir?

23 A. Yes.

24 Q. Let's go to Paragraph 75 on Page 46.

1 During an intercepted call on November 4th,
2 2008, Rod Blagojevich spoke with Deputy Governor
3 A. Rod Blagojevich told Deputy Governor A to
4 think about the, quote, Tribune stuff and that
5 he is going to talk to Harris as well. Deputy
6 Governor A confirmed that he has people doing
7 the research right now. Rod Blagojevich, in
8 discussing taking the issue to Tribune Owner,
9 stated, quote, then we'll say, look, we got a
10 problem at IFA. Here it is, close quote.

11 Agent, was that paragraph true and
12 accurate to the best of your knowledge at the
13 time you signed the affidavit?

14 A. Yes.

15 Q. Okay. Staying on that same date,
16 November 4th, Paragraph 76.

17 During a subsequent intercepted call on
18 November 4th, 2008, Rod Blagojevich talked with
19 John Harris. Blagojevich discussed the Tribune
20 editorials suggesting that Rod Blagojevich be
21 impeached, and told Harris that they need to
22 have a conversation with, quote, Tribune
23 Financial Advisor, close quote. In a
24 parenthetical, it says, "as noted above,

1 Tribune Financial Advisor is believed to
2 be a top advisor to Tribune Owner who played a
3 significant role in Tribune Owner's purchase of
4 the Tribune. Now that I've read that parenthetical,
5 I'd like to reread that sentence without the
6 parenthetical so it's understandable. Rod
7 Blagojevich discussed the Tribune editorials
8 suggesting that Rod Blagojevich be impeached,
9 and told Harris that they need to have a
10 conversation with Tribune Financial Advisor,
11 Cubs Chairman, and Tribune Owner and explain that
12 the Tribune is writing editorials criticizing
13 Rod Blagojevich for taking actions like those
14 Tribune Owner wants Rod Blagojevich to take on
15 this Cubs deal at the IFA. Rod Blagojevich stated
16 that because of the impeachment articles, quote, We
17 don't know if we can take a chance and do this IFA
18 deal now. I don't want to give them a grounds to
19 impeach me, close quote. Rod Blagojevich stated
20 that our recommendation is fire all those F-ing
21 people, get 'em the "F" out of there and get us
22 some editorial support.

23 Was Paragraph 76 accurate to the best
24 of your knowledge at the time you executed this

1 affidavit?

2 A. Yes, it was.

3 Q. Okay. Moving to the date of November 5th, the
4 following day, an intercepted phone call between
5 the Governor and his chief of staff, and that's
6 Paragraph 77, which I believe is on Page 47.

7 During an intercepted call on November
8 5th, 2008, Rod Blagojevich talked to John
9 Harris, Advisor A, and Spokesman, a State of
10 Illinois employee who is the official
11 spokesperson for the Governor's Office.
12 During part of the conversation, Rod
13 Blagojevich instructed Harris to call someone at
14 the Tribune and, quote, lay a foundation with
15 them, close quote. Harris agreed to call Tribune
16 Financial Advisor. Rod Blagojevich told Harris to
17 tell Tribune Financial Advisor, quote, this is a
18 serious thing now, close quote, and that the,
19 quote -- I'm sorry -- and that the only, quote,
20 way around it is around the legislature and that
21 the Tribune is trumping up impeachment discussions
22 because I do this stuff to get things done,
23 close quote. Rod Blagojevich told Harris to
24 tell Tribune Financial Advisor that, quote,

1 everything is lined up, but before we go to the
2 next level we need to have a discussion about
3 what you guys are going to do about that
4 newspaper, close quote. Harris stated that he,
5 quote, won't be so direct, close quote.
6 Rod Blagojevich told Harris, quote, yeah,
7 you know what you got to say, close quote.

8 Agent, was that Paragraph 77 accurate
9 to the best of your knowledge at the time you
10 signed this affidavit?

11 A. Yes, it was.

12 Q. Moving to the following day, November
13 6th, in Paragraph 78.

14 During intercepted calls on November 6,
15 2008, Rod Blagojevich spoke with John Harris.
16 Rod Blagojevich mentioned a Chicago Tribune
17 editorial published that day about, quote,
18 disservices, close quote, Rod Blagojevich
19 had done to the State of Illinois and suggested
20 that Harris call Tribune Financial Advisor
21 about it. Rod Blagojevich and Harris then
22 discussed a conversation Harris had with Tribune

1 Financial Advisor the previous -- the prior
2 day. Harris said he told Tribune Financial
3 Advisor that things, quote, look like they
4 could move ahead fine but, you know, there's a
5 risk that all of this is going to get derailed
6 by your own editorial page, close quote.
7 Harris said that he told Tribune Financial
8 Advisor that they need to have a discussion on
9 how they might tone things down and change the
10 focus of that page. Harris said that Tribune
11 Financial Advisor said that is a delicate issue,
12 that Tribune Financial Advisor wanted to come in
13 and talk to Harris about it, and that Tribune
14 Financial Advisor will talk to Tribune Owner
15 preliminarily about it. Later in the conversation,
16 Rod Blagojevich and Harris talked about an upcoming
17 meeting Harris will have with an individual at
18 the Tribune - believed to be Tribune Financial
19 Advisor. Harris stated that he will tell the
20 individual that in Harris's experience you
21 cannot, quote, tread lightly, end quote, and --
22 and you need to, quote, make wholesale changes,
23 close quote. Harris stated that he will, quote,
24 throw it out there and let them figure out how

1 to do it. Rod Blagojevich stated that Harris's
2 suggestion will be to, quote, get rid of these
3 people, close quote, and that, quote, the other
4 point you want to make is in fact, we, we sure
5 would like to get some editorial support from
6 your paper. Okay? Harris stated, quote, I want
7 to do that in person, close quote. Harris
8 stated that they will not get editorial support,
9 quote, out of the current crew, period. Rod
10 Blagojevich said, quote, this is a priority.
11 Stay on it {sic}. I mean, he, he gets the
12 message, doesn't he? Close quote. Harris
13 replied, quote, Oh, yeah, he got it loud and
14 clear, close quote. In apparent reference to
15 the prospect of IFA assistance for the Wrigley
16 Field deal, Rod Blagojevich then asked, quote,
17 what does this mean to them? Like 500 million?
18 What does it mean to Tribune Owner in real terms?
19 Close quote. Harris replied, quote, To them?
20 About a 100 million, maybe 150. Rod Blagojevich
21 said he thought it was, quote -- let me start
22 that sentence over. Rod Blagojevich said that he
23 thought, quote, it was worth like 500 million to
24 'em, close quote. Rod Blagojevich and Harris then

1 discussed the details of the deal the Cubs are
2 trying to get through the IFA. Harris said that
3 it is basically a tax mitigation scheme where
4 the IFA will, quote, own title to the building,
5 close quote - believed to be Wrigley Field -
6 and the Tribune will not, quote, have to pay
7 capital gains tax. Harris explained that the
8 total gain to the Tribune is in the neighborhood
9 of 100 million. Rod Blagojevich said, 100
10 million is nothing to sneeze at. That's still
11 worth something, isn't it? Close quote. Harris
12 said he planned on seeing Tribune Financial
13 Advisor the following Monday, November 10th, 2008.

14 Agent Cain, was Paragraph 78 accurate
15 to the best of your knowledge when you executed
16 this affidavit?

17 A. Yes, it was.

18 Q. Okay. So that discussed an upcoming
19 conversation on November 10th. I'd like to
20 go to the day after that, November 11th, in
21 Paragraph 79.

22 During an intercepted call on November
23 11th, 2008, Rod Blagojevich talked with John
24 Harris. Rod Blagojevich asked Harris about the

1 Tribune issue.

2 I'm sorry. Just for the record,
3 Paragraph 79 is on Page 49, if I've lost anyone.
4 I'll start it over.

5 Paragraph 79. During an intercepted
6 call on November 11th, 2008, Rod Blagojevich
7 talked with John Harris. Rod Blagojevich asked
8 Harris about the Tribune issue. Harris said
9 that he met with Tribune Financial Advisor the
10 prior day, November 10th, 2008, and that Tribune
11 Financial Advisor talked to Tribune Owner and
12 Tribune Owner, quote, got the message and is
13 very sensitive to the issue, close quote.
14 Harris stated that according to Tribune Financial
15 Advisor, there will be, quote, certain corporate
16 reorganizations and budget cuts coming and,
17 reading between the lines, he's going after
18 that section, close quote. Rod Blagojevich
19 responded, oh, that's fantastic, close quote.
20 According to Harris, Tribune Financial
21 Advisor did not acknowledge that, quote, he
22 interferes in that operation, but I got the
23 clear feeling that he was, uh, very sensitive to
24 our concerns, close quote. Rod Blagojevich asked

1 Harris whether Tribune Financial Advisor understood
2 the timeline in which Rod Blagojevich wanted changes
3 made in relation to, quote, our ability to do this
4 without the legislature, close quote, believed to
5 be a reference to using the IFA to help with the
6 Cubs financing. Harris stated, quote, Correct.
7 November, December. Rod Blagojevich responded,
8 quote, right. Harris said that he expects, quote,
9 before the end of this month, there's gonna be
10 some reorganization or cuts, believed to be a
11 reference to changes in the editorial board {sic}.
12 Rod Blagojevich replied, quote, Wow. Okay,
13 keep our fingers crossed. You're the man.
14 Good job, John, close quote.

15 Agent Cain, was Paragraph 79 true and
16 accurate to the best of your knowledge and
17 belief at the time you executed this affidavit?

18 A. Yes, it was.

19 Q. Moving to November 20th, an intercepted
20 phone call on that date in Paragraph 80, and
21 this is on Page 50.

22 During an intercepted call on November
23 20, 2008, Rod Blagojevich spoke with John
24 Harris. Rod Blagojevich began the conversation

1 by asking Harris whether Harris is, quote,
2 making any progress on that Tribune editorial
3 board with Tribune Financial Advisor? Close
4 quote. Harris said he had not heard back from
5 Tribune Financial Advisor. Rod Blagojevich
6 directed Harris to quote, be smart and stay on
7 top of that, close quote, and advised Harris that
8 Spokesman just informed Rod Blagojevich that
9 the Tribune editorial board was not willing to
10 listen to Deputy Governor A and basically hung up
11 on Deputy Governor A. Rod Blagojevich told Harris
12 to touch base with Spokesman and Deputy Governor A.
13 Rod Blagojevich told Harris to, quote, keep talking
14 to Tribune Financial Advisor about this. Rod
15 Blagojevich then suggested that Harris could say
16 the following to Tribune Financial Advisor:
17 What are we going to do? We've got this IFA thing.
18 We want to do all this. How is that going? Close
19 quote. Rod Blagojevich asked Harris if he
20 understood what Rod Blagojevich wants, and told
21 Harris to, quote, use your judgment.

22 Agent Cain, was Paragraph 80 true and
23 accurate at the time you executed this affidavit?

24 A. Yes.

1 Q. Moving to Paragraph 81 on Page 51.

2 During an intercepted call on November 21,

3 2008, Rod Blagojevich spoke with John Harris. Rod

4 Blagojevich asked Harris whether he told Deputy

5 Governor A that, quote, McCormick is going to

6 get bounced at the Tribune. McCormick is

7 believed to be John P. McCormick, the Chicago

8 Tribune's deputy Editorial Page Editor.

9 Harris said, quote, no, I told him, meaning

10 Deputy Governor A, that McCormick is in

11 a bad mood, close quote, and that Harris was

12 going, quote, to check with Tribune Financial

13 Advisor to see whether it was part of that

14 message about the cuts on the Ed board.

15 Harris stated, I had singled out McCormick

16 as somebody who was the most biased and

17 unfair, close quote. Rod Blagojevich

18 responded, quote, to Tribune Financial Advisor

19 you did? Close quote. Harris confirmed that it

20 was to Tribune Financial Advisor. Rod

21 Blagojevich stated, quote, that would be

22 great, close quote, and McCormick is a, quote,

23 bad guy. Rod Blagojevich asked, quote,

24 Tribune Financial Advisor is on top of this,

1 right? Harris replied that Tribune Financial
2 Advisor said they would be, quote, downsizing
3 that division or changing personnel and that
4 Tribune Financial Advisor understands and
5 Tribune Owner understands. Rod Blagojevich
6 confirmed that Harris made the point with Tribune
7 Financial Advisor that the Tribune is advocating
8 that Rod Blagojevich be impeached for going around
9 the legislature and that, quote, is precisely
10 what we're doing on Wrigley Field, close quote.
11 Harris said he explained that information to
12 Tribune Financial Advisor. Rod Blagojevich asked
13 whether Tribune Financial Advisor understood that,
14 quote, we are not in a position where we can afford
15 to do that if the Tribune is pushing impeachment,
16 close quote. Rod Blagojevich asked, they got
17 that, right? Harris replied, right. Harris
18 suggested to Rod Blagojevich that Harris explained
19 to Tribune Financial Advisor that the Tribune
20 editorials discussing impeachment, quote, could
21 jeopardize our efforts to do good things for people
22 as well as the other thing, helping the Cubs sale at
23 the IFA. Rod Blagojevich responded, there ya go.
24 He got the message? Harris replied, quote, yeah.

1 Rod Blagojevich stated, good.

2 Paragraph 82. On November 21, 2008,
3 approximately five minutes after the previous
4 conversation with John Harris, Rod Blagojevich
5 spoke again with Harris. At the end of this
6 call, Rod Blagojevich stated that the Tribune
7 thing is important if we can get that.

8 Harris replied, delicate, very delicate.

9 Rod Blagojevich said, quote, I know, I know.
10 Use your judgment, don't push too hard.

11 But you know what you got to do, right.

12 Harris responded, All right, sir.

13 I think I have to ask you a question
14 about Paragraphs 81 and 82. For the last two
15 paragraphs that I've read, were those paragraphs
16 true and accurate at the time -- to the best of your
17 knowledge at the time you signed this affidavit?

18 A. Yes, sir, they were.

19 Q. Thank you.

20 I'd like to shift topics now, if I
21 could, and move to a set of allegations
22 regarding the alleged exchange of official acts
23 for campaign contributions which begins, if I'm
24 going chronologically, at Paragraph 16. And

1 I'll try to get the page number for you. Page
2 9.

3 The heading above Paragraph 16, Section
4 A states: "Evidence Concerning the Solicitation
5 and Receipt of Campaign Contributions in Return
6 for Official Acts by Rod Blagojevich Prior to
7 October 2008."

8 And the heading under that Subsection
9 1, "Information Provided by Ali Ata."

10 Paragraph 16. As discussed {sic} in more
11 detail in the following paragraphs, Ali Ata
12 testified under oath in the spring of 2008 that
13 Ata discussed with Rod Blagojevich a potential
14 appointment to a high-level position with the
15 State of Illinois while a \$25,000 donation check
16 to Friends of Blagojevich from Ata was sitting
17 on a table in front of Rod Blagojevich. Ata
18 further testified that later, after Ata made
19 another substantial contribution to Friends of
20 Blagojevich, Rod Blagojevich told Ata that he
21 was aware of the donation, that he understood
22 that Ata would be joining his administration, and
23 that Ata better get a job, quote, where Ata can
24 make some money, close quote.

1 Agent, was Paragraph 16 true and
2 accurate at the time you executed this
3 affidavit?

4 A. Yes.

5 Q. All right. Moving to Paragraph 17.

6 Ata is a businessman who in May 2008, as
7 part of a cooperation agreement with the government,
8 pled guilty to making false statements to the FBI and
9 to tax fraud. Pursuant to his cooperation
10 agreement, the government has interviewed Ata
11 extensively regarding a number of topics,
12 including his knowledge of and involvement in
13 fundraising for Rod Blagojevich. In addition, Ata
14 testified under oath at the criminal trial of
15 Antoin Rezko, referred to as the Rezko trial, in
16 May 2008. Portions of Ata's testimony are
17 directly relevant to the current investigation.
18 In summary, and in relevant part, Ata testified
19 as follows during the Rezko trial.

20 Agent, was Paragraph 17 accurate to the
21 best of your knowledge at the time you signed
22 this affidavit?

23 A. Yes, it was.

24 Q. Okay.

1 Paragraph 18. In or about 2000 or
2 2001, at a meeting with Ata, Rod Blagojevich,
3 who at the time was a member of the United
4 States House of Representatives, told Ata that
5 he was contemplating a run for higher office and
6 asked for Ata's support. Ata agreed to support
7 him. Thereafter, Ata observed that Rezko was
8 close to Rod Blagojevich and was very involved
9 in fund raising for Rod Blagojevich's campaign,
10 including overseeing Ata's own fund raising
11 efforts on behalf of Rod Blagojevich.

12 Agent, was Paragraph 18 true at the
13 time you signed this affidavit to the best of
14 your knowledge?

15 A. Yes.

16 Q. Paragraph 19. In or about 2002, Ata
17 had several conversations with Rezko regarding
18 the possibility of a high-level appointment for
19 Ata in State government should Rod Blagojevich
20 be elected. At Rezko's direction, Ata put
21 together a list of three State agencies to which
22 he would be interested in being appointed,
23 including the Capital Development Board.

24 Agent, was that paragraph true to the

1 best of your knowledge at the time you signed
2 this affidavit?

3 A. Yes.

4 Q. Paragraph 20. In or about August 2002,
5 Ata held a small fund raising event for Rod
6 Blagojevich that Rod Blagojevich attended. In
7 advance of that fund raising event, Ata committed
8 to Rezko that Ata would raise \$25,000 at that
9 event, which he eventually did, personally
10 contributing at least 5,000.

11 Was that paragraph true at the time you
12 executed this affidavit to the best of your
13 knowledge, sir?

14 A. Yes, it was.

15 Q. Paragraph 21. I'm sorry. And Page 11
16 is where we are at this point. I apologize.

17 Later that year, Rezko approached Ata
18 for additional monetary support for Rod
19 Blagojevich. Ata agreed to contribute \$25,000
20 in additional monies to the campaign of Rod
21 Blagojevich. Ata, subsequently and by prior
22 arrangement with Rezko, brought a check in this
23 amount to Rezko's offices on North Elston Avenue
24 in Chicago. After he arrived at Rezko's offices,

1 Ata was greeted by Rezko to whom he handed the
2 check in an envelope. Rezko, carrying the check,
3 ushered Ata into a conference room where he met with
4 Rezko and Rod Blagojevich. Rezko placed the envelope
5 containing Ata's \$25,000 check to Rod Blagojevich's
6 campaign on the conference room table between
7 himself and Rod Blagojevich and stated to Rod
8 Blagojevich that Ata had been a good supporter,
9 a team player and that Ata would be willing to
10 join Rod Blagojevich's administration. Rod
11 Blagojevich expressed his pleasure and
12 acknowledged that Ata had been a good
13 supporter and good friend. Rod Blagojevich, in
14 Ata's presence, asked Rezko if Rezko had talked
15 to Ata about positions in the administration,
16 and Rezko responded that he had.

17 Agent, was Paragraph 21 true and
18 accurate at the time you executed this
19 affidavit?

20 A. Yes, sir.

21 Q. Taking you to Paragraph 22, Page 12.

22 After this meeting, Ata completed an
23 application for a State appointment. In or about
24 early 2003, Rezko informed Ata that he was going to

1 be appointed to head the State Capital Development
2 Board. Rezko subsequently informed Ata that
3 this position was going to someone else and that
4 another position would have to be found for Ata.
5 Later, Rezko discussed an opportunity for Ata
6 with the newly formed Illinois Finance
7 Authority.

8 Agent Cain, was Paragraph 22 true and
9 accurate to the best of your knowledge at the
10 time you signed this affidavit?

11 A. Yes, it was.

12 Q. Okay. Paragraph 23, same page.

13 In or about July of 2003, Rezko asked
14 Ata to make an additional \$50,000 contribution
15 to the campaign of Rod Blagojevich. Ata agreed
16 to contribute the same amount as he had previously,
17 namely \$25,000. Ata made this contribution on or
18 about July 25th, 2003, by check payable to Rod
19 Blagojevich's campaign. Ata gave this check to
20 Rezko. Thereafter, Ata had a conversation with
21 Rod Blagojevich at a large fund raising event at
22 Navy Pier. During this conversation, Rod
23 Blagojevich told Ata that Ata had been a good
24 supporter, indicated that Rod Blagojevich was

1 aware that Ata had made another substantial
2 donation to Rod Blagojevich's campaign, and told
3 Ata that he understood that Ata would be joining
4 his administration. Ata responded that he was
5 considering taking a position, and Rod Blagojevich
6 stated that it had better be a job where Ata could
7 make some money.

8 Was Paragraph 23 true and accurate to
9 the best of your knowledge at the time you
10 signed this affidavit, sir?

11 A. Yes.

12 Q. Paragraph 24 on Page 13.

13 Ata was surprised by this comment by Rod
14 Blagojevich and said something to Rezko about it
15 the next time Ata saw Rezko. When Ata told Rezko
16 that Rod Blagojevich had said words to the effect
17 of it had better be a job where you can make some
18 money, Rezko responded that he was not surprised
19 and had heard Rod Blagojevich say things like
20 that before.

21 Was this paragraph true to the best of
22 your knowledge and belief at the time you signed
23 the affidavit, sir?

24 A. Yes, it was.

1 Q. Thank you.

2 I am now going to move to the next
3 heading that is listed in this affidavit, which
4 is Information Provided by Joseph Cari. Again,
5 we are on Page 13. And I'm going to begin with
6 Paragraph 25.

7 As described in further detail in the
8 following paragraphs, Joseph Cari testified
9 under oath at the Rezko Trial on April 15 and
10 16, 2008. Among other things, Cari testified that
11 he had a conversation with Rod Blagojevich in
12 which Rod Blagojevich informed Cari that Rod
13 Blagojevich could use his power to award State
14 of Illinois contracts in order to generate
15 campaign contributions. Cari further testified
16 that he had similar conversations with Rezko
17 and Chris Kelly, who specifically offered him
18 State of Illinois work in exchange for Cari's
19 assistance with various fundraising matters.
20 In summary, and in relevant part, Cari testified
21 as follows during the Rezko trial.

22 Was Paragraph 25 accurate to the best
23 of your knowledge at the time you signed
24 this affidavit, Mr. Cain?

1 A. Yes, it was.

2 Q. Moving to Paragraph 26, Page 14.

3 Cari was a significant fundraiser for
4 Democratic causes and was previously the national
5 finance chair for Vice President Al Gore's 2000
6 presidential campaign. During his testimony, Cari
7 described meetings that he had with Rod Blagojevich,
8 Chris Kelly, Rezko, and Stuart Levine. In particular,
9 on approximately October 29th, 2003, Cari, Rod
10 Blagojevich, Kelly, Levine and others rode on an
11 airplane arranged by Levine to a fundraiser in
12 New York being hosted by Cari on behalf of Rod
13 Blagojevich. During the plane ride, Cari had a
14 conversation with Rod Blagojevich. During the
15 conversation, Cari and Rod Blagojevich discussed
16 Cari's fundraising background and work as a
17 national fundraiser. Rod Blagojevich discussed
18 his interest in running for President of the United
19 States. During the conversation, Rod Blagojevich
20 informed Cari that it was easier for governors
21 to solicit campaign contributions because
22 governors had the ability to, quote, award
23 contracts, close quote, and give legal work,
24 consulting work, and investment banking work to

1 campaign contributors. Rod Blagojevich informed
2 Cari that Rezko and Kelly were his point people in
3 raising campaign contributions. Later in the
4 conversation, Rod Blagojevich told Cari that there
5 were State of Illinois contracts and other State of
6 Illinois work that could be given to contributors
7 who helped Rod Blagojevich, Rezko, and Kelly.
8 Cari testified that Rod Blagojevich ended the
9 conversation with Cari by informing Cari that
10 Rezko and Kelly would follow up with Cari in
11 relation to the discussion that had just
12 occurred.

13 Agent, was the paragraph I just read
14 true and accurate to the best of your knowledge
15 and belief at the time you signed this
16 affidavit?

17 A. Yes.

18 Q. Turning to Paragraph 27 on Page 15.

19 At one point during the October 29, 2003
20 New York fundraiser, Cari and Levine had a
21 conversation. Cari testified that during the
22 conversation, Levine informed Cari that there was
23 a plan in place in the Blagojevich administration
24 pursuant to which Rezko and Kelly would pick

1 consultants to do business with State of Illinois
2 boards, and thereafter, the consultants would be
3 asked to make campaign contributions.

4 Was that paragraph true to the best of
5 your knowledge at the time you signed this
6 affidavit, sir?

7 A. Yes, it was.

8 Q. Paragraph 28. Cari also testified
9 about a conversation -- I'm sorry. Paragraph 28
10 is on Page 15.

11 Cari also testified about a
12 conversation he had with Rezko at Rezko's
13 office. Levine was also present for the
14 conversation. According to Cari, Rezko informed
15 Cari that Rezko had a close relationship with
16 the Blagojevich administration and Rezko had a
17 role in picking consultants and law firms and
18 other entities to get State of Illinois
19 business. Rezko informed Cari that Rezko called
20 Rod Blagojevich's chief of staff, Lon Monk, and
21 Monk would help implement Rezko's choices for
22 certain State of Illinois work. Rezko informed
23 Cari that, in exchange for raising money for Rod
24 Blagojevich, the Blagojevich administration

1 would be financially helpful to Cari's business
2 interests.

3 Agent Cain, was Paragraph 28 true and
4 accurate to the best of your knowledge at the
5 time you signed this affidavit?

6 A. Yes.

7 Q. Okay. Turning to Paragraph 29, Page 15.

8 On approximately March 5, 2004, Cari met
9 with Kelly at a restaurant. Cari testified that
10 Kelly stated that Kelly was following up on Cari's
11 conversations with Rod Blagojevich, Rezko, and
12 Levine. Kelly then requested Cari's help in
13 raising money on a national level for Rod
14 Blagojevich. Cari, as he had in the past,
15 indicated he was not inclined to assist Rod
16 Blagojevich. In response, Kelly pushed Cari
17 to assist Rod Blagojevich and informed Cari
18 that helping Rod Blagojevich would be good for
19 Cari's business interests and that Cari, quote,
20 could have whatever Cari wanted, close quote, which
21 Cari understood to be a reference to getting Cari's
22 business interests whatever State of Illinois
23 work Cari wanted if Cari helped raise money
24 on a national level for Rod Blagojevich. The

1 conversation ended shortly thereafter.

2 Agent Cain, was Paragraph 29 true and
3 accurate at the time you signed this
4 affidavit to the best of your knowledge?

5 A. Yes, it was.

6 Q. Okay. And finally, Paragraph 30, Page 16.
7 Thank you.

8 Cari testified that he eventually became
9 involved in the attempted extortion of JER, a
10 real estate investment firm that was seeking an
11 investment from the Teachers' Retirement System,
12 TRS. Details regarding corruption at TRS
13 involving one of its board members, Stuart
14 Levine, are set forth below. Based on his
15 conversations with Rod Blagojevich, Rezko, Kelly,
16 and Levine, in which he was informed that consultants
17 would be inserted into State of Illinois transactions
18 and then solicited for campaign contributions, Cari
19 believed that JER needed to hire a consultant.
20 Cari testified that he informed employees of JER
21 that they needed to hire a consultant and that in
22 Illinois, quote, the Governor and the people around
23 the Governor, quote, pick the consultants to be used
24 on particular deals. Cari informed JER employees that

1 if they did not hire the consultant that -- then JER
2 would not receive the money it was seeking from the
3 State of Illinois. Ultimately, JER exposed the
4 attempted extortion and received money from the
5 State of Illinois.

6 Agent Cain, was Paragraph 30 true and
7 accurate to the best of your knowledge at the
8 time you signed this affidavit?

9 A. Yes.

10 Q. I would like to move to Paragraph 35,
11 if I could, which deals with allegations related
12 to the Health Facilities Planning Board.
13 That will be found on Page 19, for the Members.

14 Paragraph 35. As described more fully
15 in the following paragraphs, Mercy Hospital,
16 which sought permission from the Planning Board
17 to build a hospital in Illinois received that
18 permission through Rezko's exercise of his
19 influence at the Planning Board after Rezko was
20 promised that Mercy Hospital would make a
21 substantial campaign contribution to Rod
22 Blagojevich. Rezko later told a member of the
23 Planning Board that Mercy Hospital received the

1 permit because Rod Blagojevich wanted the
2 organization to receive the permit.

3 Agent, was that Paragraph 35 true and
4 accurate to the best of your knowledge?

5 A. Yes, it was.

6 Q. Paragraph 36, which is also on Page 19.

7 Levine's criminal activities included
8 his abuse of his position on the Panning Board to
9 enrich both himself and Friends of Blagojevich.
10 The Planning Board was a commission of the State
11 of Illinois, established by statute, whose members
12 were appointed by the Governor of the State of
13 Illinois. At the relevant time period, the
14 Planning Board consisted of nine individuals.
15 State law required an entity seeking to build a
16 hospital, medical office building, or other
17 medical facility to obtain a permit, which is
18 known as a Certificate of Need, or CON, from the
19 Planning Board prior to beginning construction.

20 Agent, was Paragraph 36 true and
21 accurate to the best of your knowledge at the
22 time you executed this affidavit?

23 A. Yes.

24 Q. Moving to Paragraph 37 on Page 20.

1 Levine, as well as Planning Board members
2 Thomas Beck and Imad Almanaseer, testified under oath
3 at the Rezko Trial. Beck testified that he asked
4 Rezko to reappoint him to the Planning Board and
5 that Beck thereafter followed Rezko's directions
6 regarding which CON applications Rezko wanted
7 approved. Beck testified that it was his job to
8 communicate Rezko's interest in particular CONs
9 to other members of the Planning Board,
10 including Almanaseer, who were loyal to Rezko.
11 Beck testified that he understood that Rezko spoke
12 for the Blagojevich administration when Rezko spoke
13 to Beck about particular CONs. Almanaseer testified
14 that Beck instructed him that Rezko wanted Almanaseer
15 to vote a particular way and that Almanaseer should
16 follow Levine's lead in voting on CONs. Almanaseer
17 testified that before certain Planning Board meetings,
18 he received note cards from Beck indicating how to
19 vote on certain CON applications. Beck testified he
20 provided these note cards to Almanaseer and certain
21 other members of the Planning Board to communicate
22 Rezko's directions about certain CON applications.

23 Rezko has admitted that he manipulated
24 the Mercy vote based on Mercy's agreement to

1 make a contribution to Rod Blagojevich, which
2 agreement he states was communicated to Rod
3 Blagojevich, but he denies that Levine offered a
4 personal bribe to Rezko as well.

5 In connection with this investigation,
6 Steven Loren plead guilty to interfering with
7 the due administration of the Internal Revenue
8 Service. In exchange for his continued and
9 truthful cooperation, the government has agreed
10 to move the Court for a 5K1.1 departure and his
11 counsel is free to seek any sentence, including
12 probation. Loren has no other criminal history.
13 Pursuant to his cooperation agreement, Loren
14 testified at the Rezko Trial.

15 Agent, was Paragraph 37 true and
16 accurate at the time you signed this affidavit?

17 A. Yes, it was, and I believe your last
18 references were to Footnotes 10 and 11 --

19 Q. I apologize.

20 A. -- application?

21 Q. Yes, you are correct.

22 A. And those are also true and accurate to
23 the best of my knowledge and belief.

24 Q. Thank you for that clarification, sir.

1 Paragraph 38 on Page 21.

2 During his testimony, Levine described
3 a plan to manipulate the Planning Board to enrich
4 himself and Friends of Blagojevich. The plan centered
5 on an entity commonly known as Mercy Hospital, or Mercy,
6 that was attempting to obtain a CON to build a new
7 hospital in Illinois. Levine knew the contractor
8 hired to help build the hospital. In approximately
9 November 2003, on behalf of the contractor,
10 Levine checked with Rezko to determine whether
11 Rezko wanted Mercy to obtain its CON. Rezko
12 informed Levine that Mercy was not going to receive
13 its CON. According to Levine, he asked Rezko whether
14 it would matter to Rezko if Mercy's construction
15 contractor paid a bribe to Rezko and Levine and, in
16 addition, made a contribution to Rod Blagojevich.
17 Levine testified that Rezko indicated that such an
18 arrangement would change his view on the Mercy CON.

19 Okay. And I guess that is where I should have
20 been talking about Footnote 10, which I will read
21 again in context.

22 Rezko -- this is Footnote 10 to that
23 paragraph -- Rezko has admitted that he
24 manipulated the Mercy vote based on Mercy's

1 agreement to make a contribution to Rod
2 Blagojevich, which agreement he states was
3 communicated to Rod Blagojevich, but denies
4 that Levine offered a personal bribe to Rezko
5 as well.

6 Agent, was Paragraph 38 and the
7 footnote true and accurate to the best of your
8 knowledge at the time you signed this
9 affidavit?

10 A. Yes, it was.

11 Q. Turn to Paragraph 39.

12 CHIEF JUSTICE FITZGERALD: Mr. Ellis,
13 you have a good deal left on your direct
14 examination, don't you, sir?

15 HOUSE PROSECUTOR ELLIS: Your Honor,
16 I think I have three paragraphs on this topic.
17 If you're looking for a break, if I could, that
18 might make sense.

19 CHIEF JUSTICE FITZGERALD: Sure. Go
20 ahead and finish that topic.

21 HOUSE PROSECUTOR ELLIS: I sure will.
22 Thank you, sir.

23 CHIEF JUSTICE FITZGERALD: Let me know
24 when you believe you're at a good break point.

1 HOUSE PROSECUTOR ELLIS: Okay. That will
2 just be a few moments, sir.

3 CHIEF JUSTICE FITZGERALD: Thank you.

4 HOUSE PROSECUTOR ELLIS: Thank you.

5 BY HOUSE PROSECUTOR ELLIS:

6 Q. Agent, Paragraph 39.

7 Levine's testimony regarding Rezko's
8 actions to change the Planning Board decision
9 concerning Mercy's application for a CON based on
10 contributions for Rod Blagojevich is confirmed by
11 Attorney Steven Loren. Loren testified at Rezko's
12 criminal trial and, before that, in the grand jury.
13 According to Loren, in approximately December 2003,
14 Levine informed Loren that Rezko was against the Mercy
15 CON. According to Loren, Levine relayed to Loren a
16 conversation between Rezko and Levine during which
17 Levine asked Rezko whether a political contribution
18 to Rod Blagojevich would make a difference for
19 Mercy's CON, and Rezko responded to Levine that
20 such a contribution might make a difference.

21 And then we have that Footnote 11 which
22 we talked about earlier.

23 Agent, was Paragraph 39 true and
24 accurate to the best of your knowledge at the

1 time you executed this affidavit?

2 A. Yes, it was.

3 Q. Thank you.

4 Two more paragraphs on this topic.

5 40. Thereafter, and confirmed by the
6 testimony of Levine, Beck, and Almanaseer, as well
7 as recorded conversations, Rezko switched his
8 directions to Beck and informed Beck that Mercy
9 was to receive its CON. According to Almanaseer,
10 although he previously had been told by Beck that
11 Rezko did not want Mercy to receive its CON, he was
12 later told there had been a change and that Rezko
13 now wanted Mercy to receive that CON.

14 Agent, is paragraph -- was Paragraph 40
15 true and accurate at the time you signed this
16 affidavit?

17 A. Yes.

18 Q. Thank you.

19 Paragraph 41, and we are on Page 22.

20 Mercy received its CON as a result of a
21 controversial and irregular vote at a public
22 Planning Board meeting. The vote brought
23 significant publicity to the Planning Board and
24 ultimately led to the disbanding of the Planning

1 Board. Almanaseer testified under oath in the
2 grand jury that not long after the Planning
3 Board vote on Mercy's CON, he saw Rezko at a
4 fundraiser. According to Almanaseer, he was
5 still embarrassed about what had occurred at the
6 Planning Board vote on Mercy's CON and Rezko's
7 role in the vote. Almanaseer testified that he
8 asked Rezko why Rezko had switched the vote on
9 the Mercy CON. According to Almanaseer, Rezko
10 stated the Governor wanted it to pass.
11 Almanaseer understood the reference to Governor
12 to be a reference to Rod Blagojevich.

13 And Footnote 12 to that paragraph:
14 There was extensive testimony regarding the
15 irregularity of the vote at the Planning Board
16 meeting. In summary, during the vote, Levine
17 got up from his seat and went to speak to Beck
18 and Almanaseer. After these discussions,
19 Almanaseer then changed his vote to be in favor
20 of Mercy receiving its CON. Beck then voted for
21 it -- voted in favor as well and by a vote of five
22 to four, Mercy's application for its CON passed.

23 Was that paragraph true and accurate to
24 the best of your knowledge and belief, sir?

1 A. Yes, it was.

2 HOUSE PROSECUTOR ELLIS: Your Honor,
3 that would complete a subject matter. We have
4 only a few brief topics left, but certainly
5 somewhat lengthy. I think if this would be a good
6 time to take a break, that would make some sense.

7 CHIEF JUSTICE FITZGERALD: At this
8 time, the Senate will stand in recess till
9 1:15. Every effort will be made to be back at
10 precisely that time. Senate is recessed.

11 (Whereupon, a luncheon break was
12 taken.)

13 CHIEF JUSTICE FITZGERALD: Senate will
14 come to order.

15 Mr. Ellis, are you ready to proceed?

16 HOUSE PROSECUTOR ELLIS: Yes, I am,
17 your Honor. And thank you very much.

18 Before we get to our last topics,
19 I would like to address one issue.

20 Both Senator Haine and Senator Hendon
21 yesterday asked me about evidence that would
22 be I guess we would say favorable to the
23 Governor. I think the word was "exculpatory."
24 I would prefer not to use that word particularly

1 because that's a legal term of art, but certainly
2 any evidence that would be viewed as favorable
3 to the Governor.

4 And I did commit to him at that time,
5 to both of those Senators, that I would try to
6 point those things out. Certainly with regard
7 to Ali Ata and Joseph Cari, for example, we have
8 included not just their direct testimony at
9 trial but their cross-examination.

10 With regard to this affidavit, there
11 are a few places in here that I think one could
12 argue there is information favorable to the
13 Governor. I'm going to go to those paragraphs
14 now.

15 And I just want to make clear, I am not
16 going to ask Agent Cain or Mr. Walsh from the
17 U.S. Attorney's Office to make any
18 characterization of these. It's my
19 characterization, mine, that these are probably
20 favorable to the Governor. I don't want
21 Mr. Cain or anyone else commenting on the
22 evidence.

23 So all I will ask Mr. Cain is the same
24 question I've been asking him: Was this information

1 truthful at the time you signed the affidavit?

2 BY HOUSE PROSECUTOR ELLIS:

3 Q. First I would like to turn to Page 11, and
4 this is Paragraph 21. And we are at Footnote 4.
5 Now, for context, this is where we are talking
6 about Mr. Ata and the fact that he was
7 asked for additional money from Tony Rezko
8 before he got his appointment at the IFA. I'm
9 going to read to you now Footnote 4, Page 11,
10 Paragraph 21, Footnote 4.

11 Rezko, whose reliability has yet to be
12 fully determined, has confirmed to the government
13 in proffer sessions the essence of Ata's
14 testimony regarding Ata's meeting with Rod
15 Blagojevich, but has a different recollection
16 regarding the timing and chronology of certain
17 events and only recalls asking Ata for one
18 \$25,000 check for Rod Blagojevich. Rezko's
19 proffers have been substantial but are not
20 complete and the government's efforts to fact
21 check and corroborate Rezko's proffered information
22 are not yet complete. Rezko has proffered with the
23 government in hopes of receiving a recommendation
24 from the government for a reduced sentence.

1 During the proffer sessions, Rezko at
2 times has provided accounts that differ from
3 those of other witnesses, including Ata, but in
4 broad terms, Rezko's account incriminates Rod
5 Blagojevich in a pay-to-play criminal scheme.
6 Because the government is not yet satisfied
7 that Rezko's accounts are full and
8 complete, the government is not relying on
9 Rezko's account for probable cause. The
10 government simply notes that while Rezko's
11 account varies at times from those of other
12 witnesses, Rezko's account of Rod Blagojevich's
13 activity, on balance, would add to the probable
14 cause set forth herein, not subtract. Where
15 Rezko's proffered recollection differs
16 significantly from those of witnesses
17 upon whose testimony the government is relying,
18 this affidavit notes those differences.

19 Agent Cain, again, without
20 characterizing this at all, is this Footnote
21 4 -- was this Footnote 4 true and accurate to
22 the best of your knowledge at the time you
23 signed this affidavit?

1 A. Yes, it was.

2 Q. Okay. I'd next like to turn to
3 Paragraph 58 on Pages 30 and 31, I believe.

4 CHIEF JUSTICE FITZGERALD: Is this
5 further favorable evidence?

6 HOUSE PROSECUTOR ELLIS: Yes, sir. I'm
7 still on that, your Honor.

8 I've got four paragraphs I want to
9 reference. Two of them I've already read so
10 I'll just note them. This is the only other
11 one I have not read, sir. Thank you for that
12 clarification.

13 BY HOUSE PROSECUTOR ELLIS:

14 Q. So Paragraph 58, Page 31, Footnote 15,
15 now -- I'm sorry. Page 31 if I didn't say that.

16 Now, this is an area that we did not
17 cover dealing with Stuart Levine, but -- we did
18 not present this evidence, but I just want to
19 note that this affidavit does point things out
20 when necessary.

21 Paragraph -- or, Footnote 15. Rezko has
22 proffered that it was Kelly who informed Rod
23 Blagojevich about the circumstances of Rosenberg's
24 Capri allocation. As described below, numerous phone

1 conversations have been intercepted in which Rod
2 Blagojevich engages in ongoing criminal conduct.
3 But, during certain of these conversations,
4 including those of a clear criminal nature, Rod
5 Blagojevich denies his involvement in illegal
6 activity, including involvement in illegal
7 activity with Rezko or in relation to the Capri
8 transaction.

9 Agent Cain, was that Footnote 15 true
10 and accurate to the best of your knowledge at
11 the time you signed this affidavit?

12 A. Yes, sir.

13 Q. Okay. Thank you.

14 HOUSE PROSECUTOR ELLIS: I would just
15 point to two other paragraphs, and I've already
16 read them. I won't waste anyone's time by
17 reading them again, but I would note that at the
18 -- on Page 71, Paragraph 115 -- now, that's a very
19 long paragraph, but I'm really referring to the
20 second sentence that's at the bottom of Page
21 71, and it says: In these conversations, he
22 has repeatedly -- he being the Governor -- has
23 repeatedly discussed the attributes of potential
24 candidates, including, among other things, the

1 candidates' ability to benefit the State of
2 Illinois. So these are conversations that he is
3 having about the Senate seat.

4 I think that could at least be
5 considered favorable to the Governor.

6 Finally, on Page 55, Paragraph 88.
7 This, again, is something we already read. And
8 I would direct your attention -- it's a very
9 long sentence but the fourth line from the
10 bottom is where we talk about there were some
11 conversations not included where the Governor
12 discusses considerations for the Senate seat
13 other than financial gain for Rod Blagojevich
14 and his family.

15 And I appreciate your Honor's indulgence.
16 Those are -- that's just a little house cleaning I
17 wanted to do. I wanted to make sure we pointed out
18 as much as we could after making that commitment to
19 Senators Haine and Hendon.

20 BY HOUSE PROSECUTOR ELLIS:

21 Q. Now I'd like to move to the final
22 area that we're going to be covering with you,
23 Agent Cain.

24 We just finished before the break

1 talking about Ali Ata and Joseph Cari and the
2 Health Facilities Planning Board, and that was
3 all under a category that you had listed in the
4 affidavit as efforts to obtain campaign
5 contributions in exchange for official acts.

6 Turning your attention now to
7 Paragraph 59 of the affidavit, which is found on
8 Page 31. We are now talking here in -- in B. 1.,
9 Evidence Concerning Efforts to Obtain Campaign
10 Contributions In Exchange for Official Acts. But
11 as noted above that, this is for activities
12 after October 2008. So these will be the
13 activities that will be captured by federal
14 wiretaps and intercepted conversations.

15 So, turning your attention, Agent Cain
16 and the Members, to Page 31, Paragraph 59.

17 Since October 2008, the FBI has conducted
18 multiple interviews with Individual A, who is an
19 associate of Rod Blagojevich and has assisted in
20 campaign fundraising for Rod Blagojevich. Individual
21 A has advised agents that he or she has been present
22 for and participated in multiple conversations with
23 Rod Blagojevich in recent months regarding campaign

1 fundraising. According to Individual A, Rod
2 Blagojevich and Fundraiser A, who is the chairman
3 of Friends of Blagojevich, are making a strong
4 push to raise campaign funds before a new State
5 ethics law goes into effect on January 1, 2009,
6 that will prohibit any individual or entity with
7 existing State contracts of more than \$50,000
8 from contributing to entities like Friends of
9 Blagojevich.

10 Agent Cain, was that paragraph true and
11 accurate to the best of your knowledge when you
12 signed this affidavit?

13 A. Yes, it was.

14 Q. Okay. Going to Paragraph 60 on Page 32.

15 In response to questions posed by agents,
16 Individual A has described efforts by Rod
17 Blagojevich and Fundraiser A to obtain campaign
18 contributions from State contractors by the end
19 of the year. Specifically, Individual A advised
20 that Rod Blagojevich is seeking a total of
21 approximately \$2.5 million in campaign
22 contributions by the end of the year,
23 principally from or through individuals
24 identified on a list maintained by Friends of

1 Blagojevich. The FBI has obtained a copy of that
2 list, which identifies individuals and entities
3 targeted for campaign contributions, as well as
4 the amounts sought from those individuals and
5 entities. A comparison of the names and entities
6 on that list with information available from
7 public sources and FBI investigative files
8 reflects that numerous of the individuals and
9 entities on that list have State contracts or
10 have received public benefits conferred by Rod
11 Blagojevich, such as appointments to positions in
12 State government.

13 Agent Cain, was Paragraph 60 true and
14 accurate to the best of your knowledge at the
15 time you executed this affidavit?

16 A. Yes.

17 Q. All right. I'm now going to turn to the
18 allegations -- we have to jump around a bit
19 here -- relating to the Tollway project.
20 Paragraph 63 on Page 33 is where we'll begin.

21 According to Individual A, after
22 Individual B had left a meeting on October 6,

1 2008, Rod Blagojevich told Individual A that
2 he was going to make an upcoming announcement
3 concerning a \$1.8 billion project involving
4 the Tollway Authority. Rod Blagojevich told
5 Individual A that Lobbyist 1 was going to
6 approach Highway Contractor 1 to ask for
7 \$500,000 for Friends of Blagojevich. Rod
8 Blagojevich told Individual A that, quote,
9 I could have made a larger announcement but
10 wanted to see how they perform by the end of
11 the year. If they don't perform, blank 'em,
12 close quote. According to Individual A, he or
13 she believed that Rod Blagojevich was telling
14 Individual A that Rod Blagojevich expected
15 Highway Contractor 1 to raise \$500,000 in
16 contributions to Friends of Blagojevich and
17 that Rod Blagojevich is willing to commit
18 additional State money to the Tollway project
19 but is waiting to see how much money Highway
20 Contractor raises for Friends of Blagojevich.

21 Agent Cain, is -- was Paragraph 63 true
22 and accurate to the best of your knowledge at the
23 time you executed this affidavit?

24 A. Yes, it was.

1 Q. Moving to Paragraph 64 on Page 34.

2 A search of public information
3 available on the Internet reflects that Highway
4 Contractor 1 is an officer of a company that is
5 a large supplier of concrete in the State of
6 Illinois. The search also reflected that
7 Highway Contractor 1 is active in one of the
8 largest trade associations, the American Concrete
9 Pavement Association, in the road building
10 industry in the State of Illinois. In
11 addition, I am aware from public sources
12 that on October 15th, 2008, Rod Blagojevich
13 announced a plan to have new express lanes
14 built on the Illinois Tollway in the next
15 few years at a cost of \$1.8 billion.

16 Agent Cain, was Paragraph 64 true and
17 accurate to the best of your knowledge at the
18 time you executed this affidavit?

19 A. Yes.

20 Q. Okay. I'm now going to jump to Paragraph
21 67, and -- which includes a 67 a. It's Page 35.

22 On October 22nd, 2008, the FBI
23 intercepted pursuant to a court order portions

1 of a meeting held in a conference room at the
2 Friends of Blagojevich's office. The meeting
3 was attended by Rod Blagojevich, Fundraiser A,
4 and two lobbyists actively involved in
5 fundraising for Friends of Blagojevich.
6 FBI Special Agents have listened to a
7 recording of the meeting. The voices on the
8 recording are very low and at times are
9 difficult to hear. However, based on a review
10 of the recording, FBI Agents were able to
11 determine the following: At approximately 10:15
12 a.m., and consistent with phone records, Rod
13 Blagojevich called Highway Contractor 1. Only
14 Rod Blagojevich's portion of the phone call can
15 be heard. The call started with Rod Blagojevich
16 saying hello to Mr. Highway Contractor and
17 noting that Rod Blagojevich was excited about
18 the, quote, Tollway, believed to be a reference
19 to Rod Blagojevich's recent announcement of
20 \$1.8 billion in Illinois Tollway funding that
21 will benefit Highway Contractor 1 and the trade
22 association with which he is affiliated. Rod
23 Blagojevich talked about speaking with

1 Individual C - Individual C is a former member
2 of the U.S. House of Representatives who is
3 believed to be attempting to assist Rod
4 Blagojevich in passing a capital bill worth
5 billions of dollars that would benefit Highway
6 Contractor 1 and the trade association with
7 which he is affiliated - and began, in the context
8 of asking Highway Contractor 1 to do fund raising,
9 to discuss fund raising rule changes that will
10 take effect on January 1, 2009. The conversation
11 ended with Rod Blagojevich stating to Highway
12 Contractor 1, "Call me if you need anything."

13 Agent Cain, was that paragraph true and
14 accurate at the time you executed your affidavit
15 to the best of your knowledge?

16 A. Yes, it was.

17 Q. Thank you.

18 I'd now like to discuss the topic of
19 pediatric care reimbursements, and I'm going
20 to direct the Senate's and your attention,
21 Mr. Cain, to Paragraph 65 on Page 34. I
22 told you we have to jump around just a bit here.

23 Paragraph 65. According to Individual

1 A, on October 8, 2008, during a discussion of
2 fundraising from various individuals and
3 entities, the discussion turned to Children's
4 Memorial Hospital, and Rod Blagojevich told
5 Individual A words to the effect of, quote, I'm
6 going to do 8 million for them. I want to get
7 Hospital Executive 1 for 50. Individual A
8 understood this to be a reference to a desire
9 to obtain a \$50,000 campaign contribution from
10 Hospital Executive 1, the Chief Executive Officer
11 of Children's Memorial Hospital. Individual A
12 said that he or she understood Rod Blagojevich's
13 reference to 8 million to relate to his recent
14 commitment to obtain for Children's Memorial
15 Hospital \$8 million in State funds through some
16 type of pediatric care reimbursement. As
17 described in further detail below,
18 intercepted phone conversations between Rod
19 Blagojevich and others indicate that Rod
20 Blagojevich is contemplating rescinding his
21 commitment of State funds to benefit Children's
22 Memorial Hospital because Hospital Executive 1

1 has not made a recent campaign contribution to
2 Rod Blagojevich.

3 I'm now going to ask everyone to jump
4 to Paragraph 68 -- oh, I'm sorry.

5 Mr. Cain, the paragraph that I just
6 read to you, sir, was that paragraph true and
7 accurate to the best of your knowledge at the
8 time you executed the affidavit?

9 A. Yes.

10 Q. Okay. Thank you.

11 I'm now going to ask the Members to
12 turn to Page 37, which is Paragraph 68, Subpart
13 a. Page 37, little a.

14 On the morning of November 12th, 2008,
15 Rod Blagojevich talked to Fundraiser A. During
16 the course of the conversation, which principally
17 concerned the status of campaign fundraising
18 efforts, Fundraiser A told Rod Blagojevich that
19 Fundraiser A had never heard from Hospital
20 Executive 1. Fundraiser A said, quote, I've
21 left three messages there so I'm gonna quit
22 calling. I feel stupid now, close quote.
23 Rod Blagojevich asked when the most recent
24 call was, and Fundraiser A replied that

1 it was two days ago. Rod Blagojevich said that,
2 quote, if {sic} they don't get back to you, then,
3 then, last resort is, I'll call.

4 That portion of the Paragraph 68 a that
5 I just read to you, Agent Cain, was that portion
6 true and accurate to the best of your knowledge
7 at the time you signed this affidavit?

8 A. Yes, it was.

9 Q. Okay. I'm going to go to 68 b now, staying
10 on the date of November 12th but later that day.

11 Later on November 12, 2008, at approximately
12 2:14 p.m., Rod Blagojevich spoke with Deputy
13 Governor A, a Deputy Governor of the State of
14 Illinois. The following exchange began the
15 conversation.

16 Rod Blagojevich: The pediatric
17 doctors, the reimbursement, has that gone out
18 yet, or is that still on hold?

19 Deputy Governor A: The rate increase?

20 Rod Blagojevich: Yeah.

21 Deputy Governor A: It's January 1.

22 Rod Blagojevich: And we have total
23 discretion over it?

1 Deputy Governor A: Yep.

2 Rod Blagojevich: We could pull it back
3 if we needed to, budgetary concerns, right?

4 Deputy Governor A: We sure could.
5 Yep.

6 Rod Blagojevich: Okay. That's good to
7 know.

8 Actually, I can just keep going down
9 this paragraph. So -- let's go to Paragraph 67 --
10 68 c now, and then I'll ask you one question for all
11 of these, Agent Cain.

12 Paragraph 68 c. On November 12th, at
13 approximately 8:26 p.m., Fundraiser A called Rod
14 Blagojevich and reported the status of
15 fundraising efforts. During the conversation,
16 Rod Blagojevich instructed Fundraiser A to call
17 Lobbyist 1 the following day and ask Lobbyist 1
18 what to do about the fact that Hospital
19 Executive 1 is not calling Fundraiser A back and
20 inquire whether it was possible that
21 Individual A had instructed Hospital Executive 1
22 not to call back. See Paragraph 65. Rod
23 Blagojevich asked, quote, what do

1 we do with this guy, Hospital 1? {sic}

2 And finally, 68 d.

3 On November 13th, at approximately
4 10:05 a.m., Rod Blagojevich talked with
5 Fundraiser A. The discussion concerned the
6 status of fundraising efforts. During this
7 call, Rod Blagojevich asked about Highway
8 Contractor 1. Fundraiser A stated that
9 Lobbyist 1 is still working with Highway
10 Contractor 1. Fundraiser A also advised Rod
11 Blagojevich that he will be meeting Lobbyist 2
12 to meet with an individual at Weiss Memorial
13 Hospital. Rod Blagojevich states, quote, Yeah,
14 now be real careful there. I mean, the FBI
15 went to see Lobbyist 2. You understand? Close
16 quote. Fundraiser A also said that he had a
17 call into Individual A and that Fundraiser A
18 will talk to Individual A about Hospital
19 Executive 1.

20 I believe we now need to jump to
21 Page 41, which is subpart g of Paragraph 68.

22 On November 14th, Rod Blagojevich talked
23 to Fundraiser A. During the conversation,

1 Fundraiser A told Rod Blagojevich that he had
2 spoken with Individual A, and that Rod
3 Blagojevich needed to call Hospital Executive 1.
4 Rod Blagojevich said that he would call him.

5 Agent Cain, the portions of
6 Paragraph 68 that I've read to you - or, let's
7 just make this easier - all of Paragraph 68, was
8 the information contained in Paragraph 68 true and
9 accurate to the best of your knowledge at the
10 time you signed this affidavit?

11 A. Yes, it was.

12 Q. Okay. We have one topic left dealing
13 with the horse racing bill, and we will have a
14 tape for that as well. Let me -- before I get
15 to a few questions on that, Agent Cain, let me
16 ask you two very general questions about this
17 entire affidavit.

18 At the time you executed this
19 affidavit, was all of the information contained
20 in here -- whether I've read it to you today or
21 not, was all of the information contained in
22 this affidavit true and accurate to the best of
23 your knowledge and belief?

24 A. Yes, it was.

1 Q. Okay. And for each and every statement
2 in this affidavit that is attributed to the
3 Governor, was the Governor's voice identified
4 using the voice identification procedures you
5 described earlier?

6 A. Yes.

7 Q. Okay. I'd like to move to the final
8 topic then.

9 HOUSE PROSECUTOR ELLIS: First, I
10 believe that Members have in their packet the
11 bill status for House Bill 4758, the horse
12 racing impact fee legislation, which will
13 show that the bill was passed on November 20th
14 and sent to the Governor on November 24th of
15 2008.

16 As far as the affidavit, I'm going
17 to turn everyone's attention to Paragraph 68 e,
18 and that is on Page 39. 68 e, Page 39.

19 BY HOUSE PROSECUTOR ELLIS:

20 Q. And I believe you've already said this
21 was true and accurate so maybe I can even avoid
22 having to ask you that, Agent Cain.

23 And just for context, the previous
24 paragraph, subpart d, talks about a November 13th,

1 2008 conversation, so the date is November 13th.
2 This is before the signing of the horse racing
3 legislation, when it was still being lobbied.

4 68 e, Page 39.

5 Also during this call, Rod Blagojevich
6 and Fundraiser A spoke about efforts to raise
7 funds from two other individuals before the end
8 of the year. Fundraiser A advised Rod Blagojevich
9 that with respect to one of these individuals,
10 Contributor 1, Lobbyist 1 had informed
11 Fundraiser A that Contributor 1 was, quote,
12 good for it but that Lobbyist 1 was, quote,
13 going to talk with you, Rod Blagojevich, about
14 some sensitivities legislatively, tonight when
15 he sees you, with regard to timing of all this.
16 Rod Blagojevich asked, quote, "Right, before
17 the end of the year though, right?"
18 Fundraiser A responded affirmatively. Later
19 in the conversation, Rod Blagojevich stated
20 that he knows Lobbyist 1 is, quote, down there,
21 Springfield, Illinois, with Contractor {sic}
22 (Contributor) 1, quote, pushing a bill. In
23 a series of calls since that time, it
24 became clear that the bill Lobbyist 1 is

1 interested in is in the Office of the Governor
2 awaiting Rod Blagojevich's signature. The bill,
3 which is believed to be a law which involves
4 directing a percentage of casino revenue to
5 the horse racing industry, is expected to be
6 signed as soon as next week. In a call
7 on December 3rd, Lobbyist 1 advised Rod
8 Blagojevich that Lobbyist 1 had a private
9 conversation with Contributor 1 about the
10 contribution, or commitment, Contributor 1 had
11 not yet made and advised Contributor 1, quote,
12 look, there is a concern that there is going
13 to be some skittishness if your bill gets
14 signed because of the timeliness of your {sic}
15 commitment, close quote, and made clear that the
16 contribution, quote, got to be in now, close
17 quote. Rod Blagojevich commented to Lobbyist
18 1, "good" and "good job." In a call the next
19 day, Lobbyist1 asked Rod Blagojevich to call
20 Contributor 1, quote, just to say hello, I'm
21 working on the timing of this thing, but it's gonna
22 get done. Lobbyist 1 suggested that it is better
23 for Rod Blagojevich to make the call personally,
24 quote, from a pressure point of view, close

1 quote. Rod Blagojevich stated that he would
2 call Contributor 1 and indicate that Rod
3 Blagojevich wanted to do an event, or fundraiser,
4 downstate, quote, so we can get together and
5 start picking some dates to do a bill signing.
6 Lobbyist 1 assured Rod Blagojevich that
7 Contributor 1 would be good for the donation
8 because Lobbyist 1, quote, got in his face,
9 close quote.

10 So just for the record, Agent, was this
11 passage I just read true and accurate at the
12 time you signed this affidavit to the best of
13 your knowledge?

14 A. Yes, it was.

15 HOUSE PROSECUTOR ELLIS: Your Honor, at
16 this time, it would be my intention to play the
17 tapes that we have entered into evidence, as well
18 as to pass out to the Members of the Senate a
19 transcript of that tape, if it pleases your Honor.

20 CHIEF JUSTICE FITZGERALD: You can
21 proceed as you wish at this point.

22 HOUSE PROSECUTOR ELLIS: Thank you,
23 sir.

24 Then, we would ask that the transcripts

1 be passed out.

2 Okay. Maybe I had the chronology mixed
3 up. I guess what we will first do is -- again,
4 if it pleases the Court, I think what we'd like
5 to do is play it first, pass out the transcripts,
6 and play it a second time. That would be our
7 intention. So, I'm sorry, I kind of jumbled that
8 the first time. If that's okay with your Honor.

9 CHIEF JUSTICE FITZGERALD: Well, we're
10 right on the edge of okay, at this point.

11 HOUSE PROSECUTOR ELLIS: If I could
12 introduce the -- each one of these tapes first of all.
13 For the record, this first phone call, this is a phone
14 call from the -- the wiretap of Rod Blagojevich's
15 home. The parties to the conversation are Rod
16 Blagojevich and Robert Blagojevich.

17 If you could play the first?

18 (Whereupon, the following
19 audio recording was played.)

20 BLAGOJEVICH: Hey.

21 ROB: Hey.

22 BLAGOJEVICH: How we doin'?

23 ROB: Good. Uh, talked to Lon. And
24 uh, he says Johnny Johnston is good for it.

1 BLAGOJEVICH: Okay.

2 ROB: He's gonna give you -- ya know, he
3 didn't get it. But he said, ya know, I'm good for
4 it. I gotta just decide what, what uh, accounts to
5 get it out of. And, and Lon's going to talk to you
6 about some sensitivities legislatively tonight when
7 he sees you. With regard to timing of all of this.

8 BLAGOJEVICH: Right - before the end of
9 the year though, right?

10 ROB: Oh, yeah. Yeah. Yeah. So, uh -
11 there was no waffling there, it just uh, ya
12 know, we gotta, we just gotta figure it out and --
13 so he'll give you the specific details.

14 BLAGOJEVICH: Oh good. He's going to
15 be there tonight, right?

16 ROB: He's going with ya.

17 BLAGOJEVICH: Yeah.

18 ROB: It's a basketball game?

19 BLAGOJEVICH: Yeah, with --

20 ROB: Yeah, he yeah, he knew it was --
21 United Center -- wasn't sure what the venue was.
22 But - good.

23 BLAGOJEVICH: Okay. So -- but clearly
24 before the end of the year, right?

1 ROB: Yeah, yeah.

2 BLAGOJEVICH: He's down there right now
3 with him lobbying on a bill.

4 ROB: He was with him last night and he's
5 still down there.

6 BLAGOJEVICH: Yeah, they're pushing a
7 bill. So that's probably what he wants to wait on.

8 ROB: Well, whatever. I mean, I think
9 that's probably likely. He didn't get into
10 detail with me.

11 HOUSE PROSECUTOR ELLIS: We'll now turn
12 to the second phone call on this tape which is
13 taken from an intercept of the cellular
14 telephone of Lobbyist 1. This is a conversation
15 between Lobbyist 1 and John Johnston.

16 (Whereupon, the following
17 audio recording was played.)

18 JOHNSTON: Hello.

19 LOBBYIST 1: John. How are you? It's
20 Lon.

21 JOHNSTON: Good. How are you?
22 Checking in.

23 LOBBYIST 1: Where, oh, you, I didn't
24 know you called.

25 JOHNSTON: Oh, yeah, I left a message

1 earlier today.

2 LOBBYIST 1: What um, where are you
3 right now?

4 JOHNSTON: I'm at the track.

5 LOBBYIST 1: Can I come see you?

6 JOHNSTON: Can you come see me?

7 LOBBYIST 1: Yeah.

8 JOHNSTON: Yeah, yeah.

9 LOBBYIST 1: Um, I'll be there probably
10 about 45 minutes.

11 JOHNSTON: Okay. See ya.

12 LOBBYIST 1: Bye.

13 HOUSE PROSECUTOR ELLIS: Okay. So that
14 phone call we just heard took place on December
15 3rd, 2008, at the hour of 2:21 p.m.

16 I'd now like to turn to the third tape.
17 This is, again, from the -- an intercept of
18 Lobbyist 1's cellular telephone. It takes place
19 on the same day, December 3rd, at the hour of
20 4:11 p.m. The parties to the call are Rod
21 Blagojevich and Lobbyist 1.

22 (Whereupon, the following
23 audio recording was played.)

24 UF: Friends of Blagojevich.

1 LOBBYIST 1: Hey, it's Lon.
2 UF: Hey, Lon. Hold on, one second.
3 LOBBYIST 1: Is -- is Rod there?
4 UF: Yeah, they're both here. Hold on.
5 LOBBYIST 1: Thanks.
6 BLAGOJEVICH: Hey, Lon.
7 LOBBYIST 1: Hey. So I'm just leaving
8 there, um, and I talked to him about his commitment.
9 He goes -- I said, "Two separate conversations.
10 What about your commitment?" He goes, "Lon, I
11 have to leave in two weeks, and I'm gonna be
12 gone for two weeks. I know that I have to have
13 this in your hand by the end of those two
14 weeks." And I said, "Look, there's a concern
15 that there's gonna be some skittishness if your
16 bill gets signed because of the timeliness of
17 the commitment." He said, "Absolutely not. I
18 mean, do you want me to put some into the next
19 quarter." I said, "No. That's not my point.
20 My point is this has all gotta be in now."
21 He goes, "I'm gonna have -- I hope I'm gonna
22 have it next week, but you have my commitment.
23 I've always been there. I'm gonna be there. And
24 I've gotta have it in the next two weeks cause

1 I'm going out of town.

2 BLAGOJEVICH: Good. Um.

3 LOBBYIST 1: And it -- and the reason
4 it took so long is that Billy came in and
5 started talking about George Steinbrenner and
6 not about the bill so much, but just about his
7 illness and all that, and I didn't want to have
8 that conversation in front of Billy.

9 BLAGOJEVICH: Ya, I know. Good job.
10 Hey, um --

11 HOUSE PROSECUTOR ELLIS: Okay. And the
12 fourth conversation occurs the following day,
13 December 4th, at 9:09 a.m., and the parties to
14 the conversation -- this is, again, an intercepted
15 conversation from the cellular telephone of
16 Lobbyist 1. The parties are Rod Blagojevich and
17 Lobbyist 1.

18 (Whereupon, the following
19 audio recording was played.)

20 BLAGOJEVICH: Hey, Lon.

21 LOBBYIST 1: How are ya?

22 BLAGOJEVICH: Good.

23 LOBBYIST 1: Yeah. Ahm, so lemme,
24 ah, so one thing I was thinking about last night

1 is that, um, you ought to give, not today, but
2 maybe tomorrow, just give John Johnston a call.
3 And say, you know, calling just to say hello,
4 um, you know, I'm working on the timing of this
5 thing, but it's gonna get done.

6 BLAGOJEVICH: Okay.

7 LOBBYIST 1: It's -- it's --

8 BLAGOJEVICH: Call him tomorrow?

9 LOBBYIST 1: It's a two -- it's a
10 two-minute conversation.

11 BLAGOJEVICH: Yeah, happy do it. Call
12 him tomorrow, right?

13 LOBBYIST 1: Yeah.

14 BLAGOJEVICH: Okay. Call Johnny
15 Johnston, or should I call -- have Harris call
16 him?

17 LOBBYIST 1: Ahm --

18 BLAGOJEVICH: I mean, you want me to
19 call him directly, I will, whatever's the best
20 thing. I'm just a little bit --

21 LOBBYIST 1: I think it's better if you
22 do it.

23 BLAGOJEVICH: Okay.

24 LOBBYIST 1: For -- it's better if you

1 do it just from a pressure point of view.

2 BLAGOJEVICH: Yeah, good. I'll call
3 him and say yeah, we'll -- and we want to do an
4 event down sou -- down sou -- downstate.

5 LOBBYIST 1: Right.

6 BLAGOJEVICH: We wanna do it and
7 hope -- hope to do this so we can get together
8 and start picking some dates to do a bill signing?
9 Right?

10 LOBBYIST 1: Okay, so what are -- what
11 are the chances based on my conversation with
12 you yesterday, that this gets done next week?

13 BLAGOJEVICH: You know, they're good.

14 LOBBYIST 1: Okay.

15 BLAGOJEVICH: I mean --

16 LOBBYIST 1: He's -- I'm -- I'm telling you
17 he's gonna be good for it. I got in his face.

18 BLAGOJEVICH: Okay, good.

19 LOBBYIST 1: Alright.

20 BLAGOJEVICH: I know, it's.

21 LOBBYIST 1: Huh?

22 BLAGOJEVICH: I feel like there's
23 somebody else who's holding him back.

24 LOBBYIST 1: No.

1 BLAGOJEVICH: I believe it's Chris.

2 LOBBYIST 1: No. No.

3 BLAGOJEVICH: Well, what took, you

4 know, a whole year? You know what I mean. Hey,

5 Lon --

6 LOBBYIST 1: No, I don't think he's

7 been talking to Chris. I don't think he's been

8 talking to Chris.

9 BLAGOJEVICH: Okay.

10 HOUSE PROSECUTOR ELLIS: Thank you very

11 much.

12 And I guess at this point, we would

13 hand out transcripts of the -- of these intercepted

14 conversations. And really, it's the pleasure of

15 the Body. I don't need to play these again,

16 your Honor. It's -- if -- if -- if it's --

17 CHIEF JUSTICE FITZGERALD: Do you

18 believe that it will help the Senators

19 understand what the conversation was?

20 HOUSE PROSECUTOR ELLIS: I think it

21 might be helpful for them to follow along with

22 the transcript. Yes.

23 CHIEF JUSTICE FITZGERALD: If you wish

24 to do it, you can.

1 HOUSE PROSECUTOR ELLIS: Okay. Thank you
2 very much.

3 So, we'll hand those out now, if we could.

4 Okay. Then, your Honor, I think at this point,
5 rather than play them again, we will just -- we will
6 just rest with the transcripts. I think that'll be
7 our decision.

8 And I have no further questions for
9 Mr. Cain.

10 Thank you very much, Mr. Cain.

11 THE WITNESS: Thank you.

12 CHIEF JUSTICE FITZGERALD: Mr. Cain.
13 You are not excused. You are not. I'm sorry.

14 Per Senate Resolution 7, the Governor or
15 his counsel has the right to conduct cross-examination
16 of this witness. However, as neither the Governor nor
17 the counsel on his behalf have appeared, there can be
18 no cross-examination. Therefore, we will proceed
19 directly to taking written questions from the
20 Senators regarding the testimony of the witness.

21 President Cullerton, for what purpose
22 do you rise?

23 PRESIDENT CULLERTON: Thank you,
24 Mr. Chief Justice.

1 I would ask that we have a Democratic
2 Caucus for the purpose of formulating questions
3 to ask the witness.

4 CHIEF JUSTICE FITZGERALD: Senator
5 Radogno, for what purpose do you rise?

6 SENATOR RADOGNO: Thank you.

7 I would request similarly a Republican
8 Caucus to formulate questions.

9 CHIEF JUSTICE FITZGERALD: One hour?
10 What time do you need, Mr. Cullerton?

11 PRESIDENT CULLERTON: We should be able
12 to be back here at 2:30.

13 CHIEF JUSTICE FITZGERALD: Is that
14 agreeable to you, Senator?

15 SENATOR RADOGNO: No, I think we need
16 an hour.

17 CHIEF JUSTICE FITZGERALD: We'll give
18 you all till 2:45. Senate will stand in
19 recess.

20 (Whereupon, a short recess
21 was taken.)

22 CHIEF JUSTICE FITZGERALD: Senate will
23 come to order. The Senate will come to order.

24 There has been a request from the Body

1 that the tapes that were played earlier be
2 replayed with the transcript. So, Mr. Ellis, you
3 were right in the first instance.

4 HOUSE PROSECUTOR ELLIS: Thank you,
5 your Honor. I guess at this point, if we could
6 go ahead and do that. And if it please the
7 Court, I would direct everybody to the transcript
8 and -- just so we can set up each call. As
9 you can see at the beginning of each transcript,
10 there is the case number, which is, of course,
11 the case number of United States versus
12 Blagojevich, and then it indicates where the
13 interception took place. For example, the first
14 call will be the Rod Blagojevich home. Then
15 there will be a date and a time. So this first
16 call, again, is from the home telephone of Rod
17 Blagojevich, and the parties are identified as
18 Robert Blagojevich and Rod Blagojevich.

19 BLAGOJEVICH: Hey.

20 ROB: Hey.

21 BLAGOJEVICH: How we doin'?

22 ROB: Good. Uh, talked to Lon. And
23 uh, he says Johnny Johnston is good for it.

24 BLAGOJEVICH: Okay.

25 ROB: He's gonna give you -- ya know, he

1 didn't get it. But he said, ya know, I'm good for it.
2 I gotta just decide what, what uh, accounts to get it
3 out of. And, and Lon's going to talk to you about
4 some sensitivities legislatively tonight when he
5 sees you. With regard to timing of all of this?

6 BLAGOJEVICH: Right - before the end of
7 the year though, right?

8 ROB: Oh, yeah. Yeah. Yeah. So, uh -
9 there was no waffling there, it just uh, ya
10 know, we gotta, we just gotta figure it out and --
11 so he'll give you the specific details.

12 BLAGOJEVICH: Oh good. He's going to
13 be there tonight, right?

14 ROB: He's going with ya.

15 BLAGOJEVICH: Yeah.

16 ROB: It's a basketball game?

17 BLAGOJEVICH: Yeah, with --

18 ROB: Yeah, he yeah, he knew it was --
19 United Center -- wasn't sure what the venue was.
20 But - good.

21 BLAGOJEVICH: Okay, so -- but clearly
22 before the end of the year, right?

23 ROB: Yeah, yeah.

24 BLAGOJEVICH: He's down there right now
25 with him lobbying on a bill.

1 ROB: He was with him last night and he's
2 still down there.

3 BLAGOJEVICH: Yeah, they're pushing a
4 bill. So that's probably what he wants to wait on.

5 ROB: Well, whatever. I mean, I think
6 that's probably likely. He didn't get into
7 detail with me.

8 HOUSE PROSECUTOR ELLIS: Okay. And the
9 second phone call in the transcript and that you'll
10 be hearing is from the cellular telephone of
11 Lobbyist 1. This is on December 3rd, 2008 at
12 the hour of 2:21 p.m. That's all at the top of
13 this transcript, as you can see, and the parties
14 are Lobbyist 1 and John Johnston.

15 JOHNSTON: Hello.

16 LOBBYIST 1: John. How are you? It's
17 Lon.

18 JOHNSTON: Good. How are you?
19 Checking in.

20 LOBBYIST 1: Where, oh, you, I didn't
21 know you called.

22 JOHNSTON: Oh, yeah, I left a message
23 earlier today.

24 LOBBYIST 1: What um, where are you
25 right now?

1 JOHNSTON: I'm at the track.

2 LOBBYIST 1: Can I come see you?

3 JOHNSTON: Can you come see me?

4 LOBBYIST 1: Yeah.

5 JOHNSTON: Yeah, yeah.

6 LOBBYIST 1: Um, I'll be there probably
7 about 45 minutes.

8 JOHNSTON: Okay. See ya.

9 LOBBYIST 1: Bye.

10 HOUSE PROSECUTOR ELLIS: Okay. And the
11 next phone call, again, from the cell phone of
12 Lobbyist 1, the same date, approximately an hour
13 and 50 minutes later, at the hour of 4:11 p.m.
14 The parties are Lobbyist 1 and Rod Blagojevich.

15 UF: Friends of Blagojevich.

16 LOBBYIST 1: Hey, it's Lon.

17 UF: Hey, Lon. Hold on, one second.

18 LOBBYIST 1: Is -- is Rod there?

19 UF: Yeah, they're both here. Hold on.

20 LOBBYIST 1: Thanks.

21 BLAGOJEVICH: Hey, Lon.

22 LOBBYIST 1: Hey. So I'm just leaving
23 there, um, and I talked to him about his commitment.
24 He goes -- I said, "Two separate conversations.

1 What about your commitment?" He goes, "Lon, I
2 have to leave in two weeks, and I'm gonna be
3 gone for two weeks. I know that I have to have
4 this in your hand by the end of those two
5 weeks." And I said, "Look, there's a concern
6 that there's gonna be some skittishness if your
7 bill gets signed because of the timeliness of
8 the commitment." He said, "Absolutely not. I
9 mean, do you want me to put some into the next
10 quarter." I said, "No. That's not my point.
11 My point is this has all gotta be in now."
12 He goes, "I'm gonna have -- I hope I'm gonna
13 have it next week, but you have my commitment.
14 I've always been there. I'm gonna be there.
15 And I've gotta have it in the next two weeks
16 cause I'm going out of town.

17 BLAGOJEVICH: Good. Um.

18 LOBBYIST 1: And it -- and the reason
19 it took so long is that Billy came in and
20 started talking about George Steinbrenner and
21 not about the bill so much, but just about his
22 illness and all that, and I didn't want to have
23 that conversation in front of Billy.

24 BLAGOJEVICH: Ya, I know. Good job.

1 Hey, um --

2 HOUSE PROSECUTOR ELLIS: Okay. And
3 finally the last conversation, again, intercepted
4 from the cellular telephone of Lobbyist 1 is the
5 following day, December 4th, at the hour of 9:09
6 a.m. The parties to the conversation are Rod
7 Blagojevich and Lobbyist 1.

8 BLAGOJEVICH: Hey, Lon.

9 LOBBYIST 1: How are ya?

10 BLAGOJEVICH: Good.

11 LOBBYIST 1: Yeah. Ahm, so lemme,
12 ah, so one thing I was thinking about last night
13 is that, um, you ought to give, not today, but
14 maybe tomorrow, just give John Johnston a call.
15 And say, you know, calling just to say hello,
16 um, you know, I'm working on the timing of this
17 thing, but it's gonna get done.

18 BLAGOJEVICH: Okay.

19 LOBBYIST 1: It's -- it's --

20 BLAGOJEVICH: Call him tomorrow?

21 LOBBYIST 1: It's a two -- it's a
22 two-minute conversation.

23 BLAGOJEVICH: Yeah, happy do it. Call
24 him tomorrow, right?

1 LOBBYIST 1: Yeah.

2 BLAGOJEVICH: Okay. Call Johnny
3 Johnston, or should I call -- have Harris call
4 him?

5 LOBBYIST 1: Ahm --

6 BLAGOJEVICH: I mean, you want me to
7 call him directly, I will, whatever's the best
8 thing. I'm just a little bit --

9 LOBBYIST 1: I think it's better if you
10 do it.

11 BLAGOJEVICH: Okay.

12 LOBBYIST 1: For -- it's better if you
13 do it just from a pressure point of view.

14 BLAGOJEVICH: Yeah, good. I'll call
15 him and say yeah, we'll -- and we want to do an
16 event down sou -- down sou -- downstate.

17 LOBBYIST 1: Right.

18 BLAGOJEVICH: We wanna do it and
19 hope -- hope to do this so we can get together
20 and start picking some dates to do a bill signing?
21 Right?

22 LOBBYIST 1: Okay, so what are -- what
23 are the chances based on my conversation with
24 you yesterday, that this gets done next week?

1 BLAGOJEVICH: You know, they're good.

2 LOBBYIST 1: Okay.

3 BLAGOJEVICH: I mean --

4 LOBBYIST 1: He's -- I'm -- I'm telling

5 you he's gonna be good for it. I got in his face.

6 BLAGOJEVICH: Okay, good.

7 LOBBYIST 1: Alright.

8 BLAGOJEVICH: I know it's.

9 LOBBYIST 1: Huh?

10 BLAGOJEVICH: I feel like there's

11 somebody else who's holding him back.

12 LOBBYIST 1: No.

13 BLAGOJEVICH: I believe it's Chris.

14 LOBBYIST 1: No. No.

15 BLAGOJEVICH: Well, what took, you

16 know, a whole year? You know what I mean. Hey,

17 Lon --

18 LOBBYIST 1: No, I don't think he's

19 been talking to Chris. I don't think he's been

20 talking to Chris.

21 BLAGOJEVICH: Okay.

22 CHIEF JUSTICE FITZGERALD: Madam

23 Secretary, have any questions been submitted?

24 MADAM SECRETARY: Yes. A question list

25 has been received from both the Democratic

1 Caucus and the Republican Caucus.

2 CHIEF JUSTICE FITZGERALD: There is a
3 significant list of questions, which I will read
4 to the witness. I remind the Senate that this
5 witness has testified under unusual
6 circumstances. He's accompanied by a U.S.
7 Attorney who is authorized by law to withhold the
8 answer to any question that might be asked now,
9 and that is pursuant to federal law. I've
10 talked to the U.S. Attorney and asked him to
11 please be as liberal as he can in allowing
12 the questions to be answered.

13 With that then, I will, as I've done
14 before, begin with one question submitted by the
15 Democratic Caucus, and then we'll alternate to
16 one from the Republican Caucus until all the
17 questions have been posed.

18 With that then, the first question
19 comes from Senator Demuzio. The question
20 is, what info or persons led you to ask for a
21 wiretap? Why were the taps ordered in October?

22 U.S. ATTORNEY WALSH: Mr. Chief Justice
23 and Members of the Senate, I'm sure you'll
24 understand that there are significant legal

1 restrictions on the disclosure of information
2 gathered in the course of a federal criminal
3 investigation. Some of those restrictions are
4 embodied in federal regulations that apply to
5 all Department of Justice employees, including
6 Assistant U.S. Attorneys and FBI, DEA agents,
7 et cetera.

8 At the request of the Prosecutor and
9 this Body and to the extent that he has the
10 authority under the applicable federal
11 regulations, the U.S. Attorney has taken the
12 unusual step of authorizing the disclosure of
13 the affidavit that you have before you that was
14 filed before a federal magistrate judge and that
15 Agent Cain has testified to today, but the
16 restrictions on his testimony are set out in a
17 letter to Agent Cain. The most significant one
18 being that Agent Cain is limited to testifying
19 whether the affidavit that he executed was
20 accurate to the best of his knowledge and belief
21 in the light of the information available to him
22 at the time that the affidavit was signed.

23 He is not permitted to provide
24 additional details or to provide any other

1 information regarding the investigation, where
2 it started, how it proceeded. He's not allowed
3 to provide any indication of his belief in the
4 merits of this impeachment proceeding. And I'm
5 sorry that the question that was posed by Senator
6 Martinez {sic} is not within his authorized
7 testimony, so I have to instruct him not to
8 answer that question.

9 CHIEF JUSTICE FITZGERALD: The next
10 question from the Republican Caucus is from --
11 comes from Senator Frank Watson. To your knowledge,
12 are there currently any ongoing investigations of
13 Governor Blagojevich?

14 U.S. ATTORNEY WALSH: Again, he cannot
15 answer that question.

16 CHIEF JUSTICE FITZGERALD: From Senator
17 Bond on the -- from the Democratic Caucus: We have
18 heard a lot in recent days from the Governor about
19 a plot by the legislature to remove the Governor
20 so that taxes could be raised. I know that he
21 mentioned possible impeachment proceedings
22 during conversations listed in the affidavit.
23 Did he ever mention the plot that he's alleging
24 now in the press during those recorded

1 conversations?

2 U.S. ATTORNEY WALSH: If that
3 information is not in the affidavit, then it
4 can't be disclosed.

5 CHIEF JUSTICE FITZGERALD: From Senator
6 Carole Pankau: Does the affidavit contain a
7 complete record of all improper or potentially
8 illegal acts committed by Governor Blagojevich
9 while he was under criminal investigation?

10 U.S. ATTORNEY WALSH: And, again, he can't
11 answer that question, but I'd refer you to the
12 statements -- the public statements made by the
13 U.S. Attorney at the time the arrest was announced.

14 CHIEF JUSTICE FITZGERALD: Senator
15 Martinez from the Democratic Caucus: At what time
16 and date did the FBI seek the wiretap? What was
17 the reason the FBI sought the wiretap? And a
18 follow-up, if the reason was based on an
19 individual, was that person offered anything
20 to induce him to provide that information?

21 THE WITNESS: As laid out in the
22 complaint, the FBI first sought a wiretap on
23 October 21st, 2008, I believe, in connection
24 with this investigation. Beyond that, I don't

1 believe I'm authorized to provide any other
2 information about how we received the
3 information that led to the wiretap or any
4 inducements.

5 CHIEF JUSTICE FITZGERALD: Senator Dave
6 Luechtefeld: The conversations contained in the
7 affidavit are not the totality of all the
8 conversations between the Governor and his
9 advisors, the President-elect's staff and others
10 concerning the U.S. Attorney's {sic} Senate seat,
11 are they?

12 THE WITNESS: As it says in the
13 affidavit, these are not all of the
14 conversations.

15 CHIEF JUSTICE FITZGERALD: Again, from
16 Senator Bond: Agent Cain, is it fair to say
17 that Governor Rod Blagojevich has no desire to
18 remain Governor of Illinois for the remainder of
19 his term?

20 U.S. ATTORNEY WALSH: That's a question
21 that he cannot answer.

22 CHIEF JUSTICE FITZGERALD: Senator Gary
23 Dahl: Are there Members of this tribunal on
24 these wiretaps?

1 U.S. ATTORNEY WALSH: Again, another
2 question that he cannot answer.

3 UNIDENTIFIED VOICE: Thank God.

4 CHIEF JUSTICE FITZGERALD: Senator
5 Heather Steans - I'm sorry if I mispronounced
6 it - Steans: Having heard the tapes, does
7 your affidavit place the Governor's intent to
8 fill the vacant Senate seat based on his
9 personal interests in the proper context?

10 U.S. ATTORNEY WALSH: I don't believe
11 he's allowed to characterize anything beyond
12 what's in the affidavit, so if you can find
13 anything in the affidavit, that's the only place
14 that you'll be able to draw that inference.

15 CHIEF JUSTICE FITZGERALD: Senator
16 Carole Pankau: To your knowledge, are these
17 circumstances -- excuse me. To your knowledge,
18 are there circumstances where after a criminal
19 complaint has been filed against an individual,
20 additional charges are later levied in an indictment?
21 It is -- is it -- is the potential for that
22 circumstance to occur present in this case of
23 the affidavit you are testifying about today?

24 THE WITNESS: The answer to the first
25 question, are there circumstances where after a

1 criminal complaint has been filed against an
2 individual additional charges are later levied
3 in an indictment, the answer is yes. Is the
4 potential for that circumstance to occur present
5 in the case of the affidavit you are testifying
6 about here today? The answer is yes.

7 CHIEF JUSTICE FITZGERALD: Again, from
8 Senator Bond: In regard to the Chicago Tribune
9 situation, did the Governor speak to any
10 additional individuals in furtherance of the
11 conspiracy to your knowledge? With the follow-up:
12 To your knowledge, did the Governor take any action
13 in furtherance of this conspiracy, and did this
14 conspiracy rise to the level of an actual crime?

15 U.S. ATTORNEY WALSH: I'm sorry, again,
16 but we can't provide any details beyond what are
17 provided in the affidavit.

18 CHIEF JUSTICE FITZGERALD: Senator Kirk
19 Dillard: It's a five-point question. I believe
20 that the witness and his attorney have copies,
21 so I will just read the five questions and
22 then they can proceed to do what they will do.

23 Can you please explain oversight
24 procedures routinely used when a wiretap is

1 operational in a criminal investigation? Are
2 these routine procedures ever not followed in
3 the course of an investigation? Could the
4 wiretap be ruled as invalid if the procedures
5 are not followed? Through your years of
6 service, have you ever seen a wiretap ruled as
7 invalid because procedures were not followed
8 when the wiretap was operational? Were all
9 oversight procedures properly executed while the
10 wiretaps were collected -- collecting the
11 information contained in the affidavit you are
12 testifying about here today?

13 U.S. ATTORNEY WALSH: Again, this goes
14 beyond the scope of Agent Cain's affidavit, but
15 I would refer you to yesterday's testimony from
16 former AUSA John Scully.

17 CHIEF JUSTICE FITZGERALD: Again from
18 Senator Bond: As an FBI agent, when you have
19 information regarding a possible conspiracy,
20 what steps do you take? Do you have a
21 responsibility to act when you discover a
22 conspiracy? If so, what criteria do you use in
23 deciding whether to intervene before the crime
24 has been committed or wait until the crime has

1 been committed?

2 U.S. ATTORNEY WALSH: This question is
3 also beyond the scope of Agent Cain's affidavit.

4 CHIEF JUSTICE FITZGERALD: Senator Dale
5 Righter: Yesterday we heard that wiretaps
6 normally are approved in 30-day periods. In
7 this investigation, a second 30-day period was
8 obtained, correct?

9 Regarding the court authorization to
10 intercept Governor Blagojevich's conversations
11 without his knowledge, your affidavit in support
12 of the criminal complaint in Paragraph 14(b)
13 states that on November 26, 2008, an extension
14 of that authorization was signed by Judge
15 Kennelly. Since November 26th extension was
16 for an additional 30 days, why was the Governor
17 arrested on December 9th?

18 Is it not likely that utilizing the
19 remaining 16 days of the court-authorized
20 authorization would have revealed more about who
21 the Governor was conspiring with, not only
22 concerning the vacant U.S. Senate seat, but all
23 the other matters as well?

24 THE WITNESS: In relation to question

1 number 1 and this investigation, a second 30-day
2 period was obtained for the wiretaps, the answer
3 to that is yes.

4 CHIEF JUSTICE FITZGERALD: I'm sorry.

5 THE WITNESS: In connection with the
6 remaining questions, I believe that goes beyond
7 my authority to answer that question because the
8 answers are not in the complaint.

9 CHIEF JUSTICE FITZGERALD: From Senator
10 Garrett: Regarding the campaign contributions
11 to Friends of Blagojevich from Ali Ata, it
12 has been alleged that Ata contributed more than
13 \$25,000 to Blagojevich's campaign, but the FBI
14 has not confirmed this. Wouldn't the D-2's from
15 Blagojevich's campaign confirm the actual amount
16 of the money donated from Ata? What do
17 Blagojevich's D-2's show regarding the Ata
18 contributions? And is it possible that some of
19 the contributions from Ata and others could have
20 been cash?

21 THE WITNESS: The only thing I can say
22 about question number 1 in connection with Ata's
23 contributions is what was laid out in testimony
24 in the complaint as it relates to Ali Ata. The

1 remaining questions I cannot answer. It
2 would go beyond my authority.

3 CHIEF JUSTICE FITZGERALD: From Senator
4 Dave Luechtefeld: Yesterday, we learned about
5 wiretaps, bugs and recordings made with the
6 knowledge of one of the individuals being
7 recorded. These three devices are used
8 for gaining information by intercepting
9 conversations either on the phone or in person.
10 Which of these three types of intercept
11 devices were used to record Governor
12 Blagojevich for the statements included in
13 the affidavit?

14 THE WITNESS: I think it's clear in the
15 affidavit that we used microphones in Governor
16 Blagojevich's campaign office, which is also
17 referred to as bugs, and wiretaps on his home
18 telephone.

19 CHIEF JUSTICE FITZGERALD: Senator
20 Kotowski: With regard to the pediatric care
21 reimbursement, do we know how long the pediatric
22 care reimbursement was postponed in order to
23 attempt to secure campaign contributions or
24 other benefits from Hospital Executive 1?

1 U.S. ATTORNEY WALSH: Again, that's
2 beyond the scope of the affidavit, so Agent Cain
3 cannot answer it.

4 CHIEF JUSTICE FITZGERALD: Senator
5 Larry Bomke: Your affidavit appears to have
6 been signed approximately seven weeks ago. Has
7 anything occurred since that date which would
8 make any of the statements in your affidavit
9 untrue? If so, can you please explain?

10 U.S. ATTORNEY WALSH: Again, since it
11 goes beyond the scope of the affidavit, he can't
12 answer that question at this time.

13 CHIEF JUSTICE FITZGERALD: Senator
14 Collins: How many hours of tapes were recorded
15 by the FBI as it relates to the affidavit?

16 U.S. ATTORNEY WALSH: That's a detail
17 that's not in the affidavit and so it can't be
18 disclosed here.

19 CHIEF JUSTICE FITZGERALD: Senator Kirk
20 Dillard: Do you have any knowledge of any taped
21 conversation between Governor Blagojevich and
22 the leading Democrat in the United States,
23 Senator Harry Reid -- in the United States Senate,
24 I'm sorry, Senator Harry Reid? If yes, can you

1 tell us about it?

2 U.S. ATTORNEY WALSH: At the risk of
3 sounding like a broken record, he can't answer
4 that question.

5 CHIEF JUSTICE FITZGERALD: Senator
6 Haine: It reads, paragraph a, did the Gov make
7 the call referred to herein? Paragraph 68(b),
8 did the Gov pull it back as stated? Paragraph
9 68(d), did Fundraiser A actually talk with the
10 Individual A about Hospital Executive Number 1?
11 Paragraph 68(c) {sic}, did Gov actually call
12 Contributor Number 1? And Paragraph 68(g), did
13 Gov actually call Hospital Executive Number 1?

14 U.S. ATTORNEY WALSH: He cannot answer
15 this question either.

16 CHIEF JUSTICE FITZGERALD: Senator
17 Chris Lauzen: We have listened today to
18 redacted portions of recorded conversations that
19 Governor Blagojevich had; is that correct?

20 THE WITNESS: That's correct.

21 CHIEF JUSTICE FITZGERALD: And the
22 second part of the question is, do you know why
23 these specific tapes and portions of tapes were
24 chosen to be disclosed to us and others were not

1 included?

2 U.S. ATTORNEY WALSH: Again, that's a
3 decision made by the U.S. Attorney in an attempt
4 to protect the ongoing criminal investigation,
5 and Agent Cain is not authorized to disclose
6 that.

7 CHIEF JUSTICE FITZGERALD: Senator
8 Haine: Can you outline for us the times that the
9 Governor's direction -- I'm sorry -- directives
10 concerning trading official acts for personal gain
11 or contributions were communicated to the targets
12 of the overtures? If any of these directives
13 are not communicated to said targets, was a
14 crime committed?

15 THE WITNESS: I cannot outline any
16 information other than what's already set forth
17 in the complaint. And the second part of that
18 question, if any of these directives are not
19 communicated to said targets, was a crime
20 committed? That's beyond the scope of my
21 authorization.

22 CHIEF JUSTICE FITZGERALD: Senator
23 Frank Watson: And you are aware, aren't you, that
24 early in January 2009, Governor Blagojevich's

1 attorney was given an unredacted version of
2 these exact conversations? You are not aware of
3 any attempt being made by the Governor --
4 Governor Blagojevich's attorney or the Governor
5 himself to present to this Body what was said in
6 the remaining portions of the conversation, are
7 you?

8 U.S. ATTORNEY WALSH: Again, that's not
9 in his affidavit, so he cannot testify to that.

10 CHIEF JUSTICE FITZGERALD: Senator
11 Maloney: In any of the recorded conversations
12 relative to the vacant United States Senate
13 seat, did the Governor ever discuss any
14 potential candidate in terms of their
15 professional qualifications or how the citizens
16 of Illinois could be served?

17 THE WITNESS: Yes, I believe he did.

18 CHIEF JUSTICE FITZGERALD: Senator
19 Chris Lauzen: Does your affidavit state in
20 Paragraph -- I'm sorry. Does your affidavit
21 state in Paragraph 76 on Page 46 through 47 that
22 Rod Blagojevich discussed the Tribune editorials
23 suggesting that Rod Blagojevich be impeached, and
24 told Harris they need to have a conversation

1 with the Tribune Financial Advisor, Cubs Chairman,
2 and Tribune Owner and explain that the Tribune
3 is writing editorials criticizing Rod
4 Blagojevich for taking actions like those
5 Tribune Owner wants Rod Blagojevich to take on
6 this Cubs deal at the IFA? Rod Blagojevich stated
7 that because of the impeachment articles, we don't
8 know if he {sic} can take a chance and do this IFA
9 deal now. I don't want to give them a grounds to
10 impeach me. Rod Blagojevich stated that our
11 recommendation is fire all of those F-ing people,
12 and get them the "F" out of there and get us some
13 editorial support.

14 Does this appear to be an attempt to
15 intimidate and a violation of the Governor's
16 oath of office to support and protect the United
17 States Constitution, which includes the First
18 Amendment, protection of free press?

19 THE WITNESS: I can answer yes to part
20 one of that question, and I'm not authorized to
21 answer part two of the question as it relates to
22 the First Amendment protection.

23 CHIEF JUSTICE FITZGERALD: Senator

1 Frerichs: To your knowledge, what was the first
2 time Governor Blagojevich began discussing the
3 trading or selling of the -- President Obama's U.S.
4 Senate seat?

5 THE WITNESS: I would just refer you to
6 the affidavit, and my answer would be consistent
7 with what's laid out in the affidavit.

8 CHIEF JUSTICE FITZGERALD: Senator
9 Larry Bomke: In yesterday's press blitz, the
10 Governor affirmed that his father-in-law, Dick
11 Mell, in 2003 to 2004, made allegations that
12 Governor Blagojevich was trading appointments
13 for large political contributions.
14 Correspondingly, Paragraph 23 of your affidavit
15 says in or about July 23rd {sic} (2003), Rezko
16 and Ata asked -- Rezko asked Ata to make an
17 additional \$50,000 contribution to the campaign
18 of Rod Blagojevich. Ata agreed to contribute the
19 same amount as he had previously, namely 25,000.
20 Ata made this contribution on or about July 25th,
21 2000 {sic} (2003), by check payable to Rod
22 Blagojevich's campaign. Ata gave this check
23 to Rezko. Thereafter, Ata had a conversation
24 with Rod Blagojevich at a large fundraiser event

1 at Navy Pier. During this conversation, Rod
2 Blagojevich told Ata that Ata had been a good
3 supporter, indicating that Rod Blagojevich was
4 aware that Ata had made substantial donations
5 to Rod Blagojevich's campaign, and told Ata
6 that he understood that Ata would be joining
7 his administration. Ata responded that he was
8 considering taking a position, and Rod
9 Blagojevich states that he had -- it had better
10 -- job where Ata could make some money.

11 Is this a true and accurate statement?

12 THE WITNESS: That is an accurate
13 summary of what is in my affidavit according to
14 the testimony provided by Ata.

15 CHIEF JUSTICE FITZGERALD: Senator
16 Silverstein: Special Agent Cain, how long had
17 the FBI been intercepting Governor Blagojevich's
18 communications as it relates to the affidavit
19 you signed in support of the criminal complaint?

20 THE WITNESS: My answer would be
21 consistent with what is in the affidavit, and I
22 think the first reference to interception of
23 communications was on or around October 21st,

1 2008 in the affidavit.

2 CHIEF JUSTICE FITZGERALD: Senator Tim
3 Bivins: Looking at Paragraph 13 of your
4 affidavit, the federal government in 2003 began
5 investigating allegations of illegal activities
6 concerning -- occurring in the State of Illinois
7 government as part of the administration of
8 Governor Rod Blagojevich. Is this true and
9 accurate?

10 THE WITNESS: Yes. Consistent with my
11 affidavit, everything in my affidavit is true
12 and accurate to the best of my belief and
13 knowledge at that time.

14 CHIEF JUSTICE FITZGERALD: Senator
15 Frerichs -- Frerichs, I apologize: Special Agent
16 Cain, based on some of the instructions given by
17 Governor Blagojevich to his staff, such as not to
18 put anything in writing and that the world was
19 listening, do you believe the Governor felt he
20 was being -- was being {sic} something illegal or
21 at least unethical?

22 U.S. ATTORNEY WALSH: Again, the agent is
23 not allowed to characterize his beliefs other than
24 what is expressed in the affidavit.

1 CHIEF JUSTICE FITZGERALD: Senator Dale
2 Righter: In Paragraph 67 of your affidavit, you
3 detail a meeting held on October 22nd, 2008 at
4 the Friends of Blagojevich's office that
5 included the Governor, Fundraiser A, and two
6 lobbyists. During the meeting, a phone call is
7 overheard wherein you state that the Governor
8 called someone designated as Highway Contractor
9 1.

10 Additionally, you state that only the
11 Governor's side of the call had been overheard.
12 Why is that?

13 If the reason is that no bug was placed
14 on the phone from which the Governor made the
15 call, why was the phone not bugged? Do you not
16 have probable cause to believe the Governor
17 would be having conversations with and
18 conspiring with other individuals that would
19 produce evidence of his and other's corrupt
20 actions?

21 THE WITNESS: I believe, in response to
22 part one of your questions, that recording was
23 based on a microphone or a bug placed in the
24 campaign office rather than a wiretap. In

1 connection with part two and three of those
2 questions, that would be beyond my authorization
3 to answer that question.

4 CHIEF JUSTICE FITZGERALD: Senator
5 Bond: Special Agent Cain, could you please
6 detail how the Governor plotted to use State
7 funds to purchase Wrigley Field and how he
8 planned to use that purchase to have members
9 of the Chicago Tribune editorial board fired?

10 THE WITNESS: I can't say any specifics
11 other than what is beyond my -- what's in my
12 affidavit.

13 CHIEF JUSTICE FITZGERALD: Senator
14 Christine Radogno: In Paragraph 87 of your
15 affidavit, you state that agents have
16 intercepted a series of communications regarding
17 the efforts of Rod Blagojevich, John Harris, and
18 others to misuse the power to obtain personal
19 gain. Can you tell us who the others are?

20 THE WITNESS: No, I cannot.

21 CHIEF JUSTICE FITZGERALD: Senator
22 Haine: Was the make-up or membership of the
23 Health Facilities Planning Board determined by

1 the Governor or by the past governor or both
2 Ryan and Blagojevich?

3 THE WITNESS: I'm hesitating because
4 I'm not sure whether that is in my complaint or
5 not, but I know the Health Facilities Planning
6 Board membership is determined by the Governor.

7 CHIEF JUSTICE FITZGERALD: Senator
8 Christine Radogno: In Paragraph 87 of your
9 affidavit, you state that agents have
10 intercepted a series of communications regarding
11 the efforts of Rod Blagojevich, John Harris, and
12 others to misuse the power and obtain personal
13 gain -- I'm sorry. I just read that question.

14 The second question from the Senator was,
15 Paragraph 87 of your affidavit states that the
16 affidavit does not include all the calls dealing
17 with the corrupt efforts of Rod Blagojevich,
18 John Harris, and others to misuse power --
19 Rod Blagojevich to appoint a United States
20 Senator for personal gain of Rod Blagojevich
21 and his family. Can you tell us who the others
22 are?

23 THE WITNESS: No, I cannot.

24 CHIEF JUSTICE FITZGERALD: Senator

1 Bond: Agent Cain, according to your affidavit,
2 Governor Blagojevich used three criteria to
3 weigh his options to fill the Senate vacancy,
4 and they were his legal situation, his personal
5 situation and his political situation; is that
6 correct? If so, were those the only criteria he
7 listed at the time?

8 THE WITNESS: That appears to be an
9 accurate summary of what is in my affidavit, and
10 those were the criteria listed in that telephone
11 call that was summarized in my affidavit.

12 CHIEF JUSTICE FITZGERALD: Senator Dave
13 Syverson: Paragraph 86 through 117 of the
14 affidavit deal with the appointment of the
15 United States seat vacated by President Obama.
16 In addition to Deputy Governor A, Advisor A,
17 Advisor B, John Harris, Patti Blagojevich and
18 the Governor, are there any other elected
19 officials on tape discussed or discussed on
20 tape who were involved in any part of the sale
21 of the Senate seat operation?

22 Is the scope of the investigation
23 limited to these six individuals?

24 How many total hours of tape exist of

1 that time? How much of that do we have in
2 this exhibit?

3 U.S. ATTORNEY WALSH: This question is
4 well beyond the scope of the authorization to
5 testify.

6 CHIEF JUSTICE FITZGERALD: Kimberly
7 Lightford: Agent Cain, could you please explain
8 how the Governor attempted to accelerate his
9 campaign fundraising in light of the ethics bill
10 this General Assembly passed?

11 THE WITNESS: It was discussed at
12 meetings and contacts were made in order to
13 accelerate the fundraising which are outlined in
14 my complaint.

15 CHIEF JUSTICE FITZGERALD: Senator
16 Chris Lauzen: If use of the crudest language,
17 incompetence, overt and extreme partisanship or
18 even consistently breaking political commitments
19 were illegal, impeachable offenses and grounds
20 for removal from office, there might even be
21 some empty chairs in this Chamber.

22 Agent Cain, in your opinion, what
23 raises the actions in your thorough affidavit and
24 the tapes we have heard to the level of criminal

1 activity, and perhaps, a breach of the
2 Governor's Constitutional oath of office?

3 U.S. ATTORNEY WALSH: This is not a
4 question that he can answer.

5 CHIEF JUSTICE FITZGERALD: Senator
6 James Clayborne: The phone call on 12/3/08 at
7 4:11 p.m. and the call on 12/4/08 at 9:09 a.m.
8 end without the parties terminating their
9 discussion. What was the reason for redacting
10 the rest of the conversation from the phone
11 calls of 12/3/08, 4:11, and the call on
12 12/4/08 at 9:09 a.m.?

13 U.S. ATTORNEY WALSH: Agent Cain can't
14 answer the question. This is the subject of
15 proceedings before Judge Holderman. And to the
16 extent that there are public filings, you can
17 read those to see, if possible, why some
18 redactions may have been made.

19 CHIEF JUSTICE FITZGERALD: Senator Dan
20 Cronin: During any of the recorded
21 conversations with U.S. Senate Candidates 1,
22 2, 3, 4, 5 and 6, was there any dialogue about a
23 particular candidate or any of the candidates'
24 abilities or philosophies to lead and implement

1 good public policy, or was the total sum and
2 substance of the conversation about Senator
3 Candidates 1, 2, 3, 4, 5 and 6 solely about
4 money and personal arrangements for Rod
5 Blagojevich and his wife?

6 THE WITNESS: I cannot answer that
7 question beyond what's already in my complaint.

8 CHIEF JUSTICE FITZGERALD: From Senator
9 Bond: Special Agent Cain, is it fair to say
10 that based upon your affidavit, that Governor
11 Rod Blagojevich's main concern regarding the
12 appointment to fill the vacant Senate seat was
13 he needed to make money?

14 THE WITNESS: I'm sorry. I cannot
15 answer that beyond what's already in my
16 complaint.

17 CHIEF JUSTICE FITZGERALD: I don't
18 think I'm repeating this question. Maybe I am.
19 During all the -- this is Senator Dan Cronin: During
20 all the conversations regarding Senate Candidates 1, 2,
21 3, 4, 5 and 6 that were recorded or listened to by
22 agents, did the Governor ever engage in a discussion
23 regarding policies of State government, specifically
24 education and improvement -- improving the

1 performance of Illinois school children, or
2 did the entire sum and substance of the
3 Governor's statement focus on personal gain and
4 political contributions?

5 THE WITNESS: Again, I cannot provide
6 any specifics beyond what is in the affidavit to
7 my complaint as it pertains to the summaries and
8 the quotes.

9 CHIEF JUSTICE FITZGERALD: From Senator
10 John Sullivan: Mr. Cain, the Governor claims we
11 do not know the whole story, and what he did was
12 to help the people of Illinois. In the
13 transcripts, Paragraph 81, the Governor says
14 actions could jeopardize our efforts to do good
15 things for people. And in Paragraph 92, he says
16 he will make decisions on the Senate seat in good
17 faith.

18 In your opinion, having heard the
19 entire transcripts, were the Governor's actions
20 for the people of the State of Illinois?

21 U.S. ATTORNEY WALSH: Again, that's beyond
22 the scope of the agent's authorization to testify.

23 CHIEF JUSTICE FITZGERALD: Another
24 question from Senator Dan Cronin: I wish to

1 learn more about the position statements made by
2 the owners of the Tribune regarding the firing
3 of John McCormick or any member of the editorial
4 board. Are there any recorded conversations
5 representing the Tribune Owner's position or
6 intent with respect to firing the Tribune
7 editorial board employees?

8 THE WITNESS: Again, I can't comment on
9 any other recorded conversations beyond what
10 is in the affidavit to my complaint.

11 CHIEF JUSTICE FITZGERALD: Senator
12 Jacobs: Is the Governor's ability to appoint
13 someone to the U.S. Senate seat a thing of value
14 sufficient to support a criminal conspiracy?

15 Did the Governor actually sell the U.S.
16 Senate seat for personal gain?

17 THE WITNESS: I can't answer that
18 question. That's beyond my authorization.

19 CHIEF JUSTICE FITZGERALD: From Senator
20 Christine Radogno: In Paragraph 99 and 101, it
21 is obvious that there were at least some
22 communications from the President-elect's
23 organization that the President-elect desired to
24 have Senate Candidate Number 1 appointed to the

1 U.S. Senate seat vacated by the President-elect.
2 Can you tell us who that was and whether that
3 communication was recorded?

4 THE WITNESS: I cannot.

5 CHIEF JUSTICE FITZGERALD: From Senator
6 Koehler: Beginning with Paragraph 16, Page 9,
7 on information concerning Ali Ata and Joseph
8 Cari, what is the source of that information?
9 Where did it come from?

10 THE WITNESS: That would be based on
11 the testimony of Ali Ata and Joseph Cari at the
12 Tony Rezko trial.

13 CHIEF JUSTICE FITZGERALD: The
14 remaining questions are from the Republican
15 Caucus. Senator Dale Righter: In Paragraph
16 115(d) of your affidavit, you summarize a
17 discussion between the Governor and individuals
18 you refer to a -- three others in which a
19 potential scheme to prepay the Governor's
20 criminal defense attorney in order to avoid the
21 impact of the Friends of Blagojevich account
22 being frozen by the federal government.

23 Do you know who these three individuals
24 were? If so, who are they -- who were they?

1 THE WITNESS: I cannot identify the
2 individuals beyond the identification that's in the
3 affidavit to the complaint.

4 CHIEF JUSTICE FITZGERALD: Repeating a
5 possible question that I missed on the first
6 page of the Republican document.

7 Senator Gary Dahl: Are there any
8 Members of this tribunal on those wiretaps? No,
9 I think I read that one before.

10 Senator Dan Duffy and Dale Risinger:
11 If the wiretap recordings show that Governor
12 Blagojevich accelerated the pay-to-play schemes
13 in late 2008 and with the tone and ease of his
14 conversation, is it fair to believe that these
15 same schemes went on for years before 2008?

16 THE WITNESS: It would be beyond -- be beyond
17 my authorization to comment on that question.

18 CHIEF JUSTICE FITZGERALD: I hope this
19 is not a repeat. Senator Dale Righter: In
20 Paragraph 115(d) of your affidavit, you
21 summarize a discussion between the Governor
22 and individuals you refer to a -- three others
23 in which a potential scheme to prepay the
24 Governor's criminal defense attorney in order to

1 avoid the impact of the Friends of Blagojevich
2 account being frozen by the federal government.

3 Do you know who these three individuals
4 were? If so, who were they?

5 THE WITNESS: Yes, your Honor, that is
6 a repeat, and the answer is I cannot identify
7 these individuals beyond how they are identified
8 in the affidavit to the complaint.

9 CHIEF JUSTICE FITZGERALD: Senator Dave
10 Syverson: In Paragraph 112 of your affidavit,
11 you detail a conversation between the Governor
12 and John Harris that occurred on November 13,
13 2008. During that conversation, the affidavit
14 states that they discussed a planned call to
15 Presidential Advisor during which the idea of
16 the President-elect's assistance with
17 fundraising for a proposed 50(c) -- 501(c)(4)
18 would be discussed.

19 Further, you state the Governor
20 wanted Presidential Advisor to get the word
21 today so that when the Presidential Advisor asks
22 for the 5th Congressional District thing, I
23 want it in his head.

24 Your affidavit details no actual

1 conversation with Presidential Advisor on this
2 specific issue. Is that because no such
3 conversation was overheard, or because it's not
4 part of the excerpts we have been permitted to
5 hear?

6 Is there anything in your affidavit
7 concerning what the 5th Congressional District
8 thing pertained to? If so, what? If not, is
9 that because no conversations were overheard on
10 the issue or such conversations are not within
11 the excerpts we are allowed to hear?

12 U.S. ATTORNEY WALSH: That's beyond the
13 scope of Agent Cain's authorization.

14 CHIEF JUSTICE FITZGERALD: Senator Pam
15 Althoff: In Paragraph 106 of your affidavit,
16 you state that Rod Blagojevich said that he will
17 control the 501(c)(4) organization through a
18 board of directors while he is Governor. Is
19 this statement consistent with how your
20 affidavit in Paragraph 33 through -- paragraphs
21 33 through 41 describe Governor Blagojevich's
22 method of controlling the Illinois Health
23 Facilities Planning Board?

24 THE WITNESS: It would be beyond my

1 authorization to comment on whether it is
2 consistent with other information in the
3 affidavit. The affidavit simply reports the
4 information that's available to me from these
5 different sources at the time.

6 CHIEF JUSTICE FITZGERALD: All right.
7 From Senator Delgado: Notwithstanding all the
8 other allegations, the U.S. Attorney stated that
9 the Governor attempted to sell the Obama seat,
10 however, according to your affidavit, the
11 Governor states that he was approached by
12 Candidate Number 5 to pay to play. Is that
13 accurate?

14 U.S. ATTORNEY WALSH: Not in -- sorry.
15 This is not in the affidavit, so it's beyond
16 the scope of Agent Cain's authorization.

17 THE WITNESS: There is a part of that
18 that is in my affidavit. And if the question is,
19 in the affidavit, the Governor states he was
20 approached by Candidate Number 5, quote, pay to
21 play, is this accurate, if that's the question,
22 I would, again, refer you to my affidavit, and I
23 believe there is a reference in the affidavit to
24 that. My affidavit is true and accurate to the

1 best of my knowledge and belief at the time I
2 signed it.

3 CHIEF JUSTICE FITZGERALD: The next
4 question comes from Senator Brad Burzynski:
5 Throughout your affidavit concerning the sale of
6 the U.S. Senate seat, the Governor continually
7 instructs his chief of staff to make contact
8 with the President-elect advisor regarding
9 filling the seat.

10 Were, in fact, these contacts made as
11 requested by the Governor throughout the time
12 frame laid out in your testimony?

13 THE WITNESS: I believe there are some
14 contacts that maybe laid out, but again, this
15 affidavit is not proposing to summarize each and
16 every contact that is made in the wiretapped
17 conversations.

18 CHIEF JUSTICE FITZGERALD: From Senator
19 Kotowski: Is it an accurate statement that the
20 Governor stated that he doesn't -- does not want
21 to be Governor for the next two years?

22 THE WITNESS: That statement is in my
23 affidavit, and it is true and accurate to my
24 knowledge and belief at the time I signed the

1 affidavit.

2 CHIEF JUSTICE FITZGERALD: From Senator
3 Matt Murphy: Does your affidavit state in
4 Paragraph 91 on Pages {sic} 57 and with respect to
5 the Senate seat, Deputy Governor A suggested putting
6 together a list of things that Rod Blagojevich
7 would accept in exchange for the Senate seat;
8 Rod Blagojevich responded that the list can't be
9 in writing?

10 THE WITNESS: That is accurate.

11 CHIEF JUSTICE FITZGERALD: Again from
12 Senator Matt Murphy: Does your affidavit state
13 in Paragraph 96 on Page 59 that Rod Blagojevich
14 stated I've got this thing and it's F-ing
15 golden, and, uh, uh, I'm just not giving it up
16 for F-ing nothing; I'm not going to do it; and
17 I can always use it; I can parachute me there?

18 THE WITNESS: Yes.

19 CHIEF JUSTICE FITZGERALD: Senator Brad
20 Burzynski: Is there a wiretapped phone
21 conversation between Governor Blagojevich and
22 United States Senator Richard Durbin on or about
23 November 24th, 2008? Are you aware that the
24 very next day, Senator Durbin asked President

1 Bush to commute former Governor George Ryan's
2 sentence? Do you know if this action was in any
3 way related to the November 24th, 2008 phone
4 conversation between Governor Blagojevich and
5 U.S. Senator Richard Durbin?

6 U.S. ATTORNEY WALSH: All these
7 questions are beyond the scope of Agent Cain's
8 authorization to testify.

9 CHIEF JUSTICE FITZGERALD: Senator
10 Chris Lauzen: The Governor has publicly stated
11 in the past 48 hours that all of his actions and
12 concerns are about the service to the people.
13 However, in -- Paragraph 111 on Page 70 of your
14 affidavit indicates that Rod Blagojevich stated
15 that his decision about the open Senate seat
16 will be based upon three criteria in the
17 following order of importance: our legal
18 situation, our personal situation, my political
19 situation. This decision, like every other one,
20 needs to be based upon that, legal, personal,
21 political.

22 Does your affidavit accurately reflect
23 what you heard on the tapes?

24 THE WITNESS: Yes, it does.

1 CHIEF JUSTICE FITZGERALD: Senator Matt
2 Murphy: Does your affidavit state that any of
3 the three criteria included in the Governor's --
4 Blagojevich's decision-making criteria include
5 the people of the State of Illinois? Does your
6 affidavit state that any of the three criteria
7 indicated in Governor Blagojevich's
8 decision-making criteria include the provisions
9 of his oath of office, including upholding the
10 Constitution of the State of Illinois? But your
11 affidavit does state that the three criteria
12 included in Governor Blagojevich's
13 decision-making criteria included his personal
14 legal, personal financial and political
15 situations, correct?

16 THE WITNESS: I think my affidavit
17 speaks for itself. I'm not authorized to
18 testify beyond what's in my affidavit.

19 CHIEF JUSTICE FITZGERALD: From Senator
20 John Millner, a series of four questions which
21 I'll read.

22 Is there any doubt in your mind that
23 the statements contained in the affidavit
24 attributed to Governor Blagojevich were actually

1 made by Governor Blagojevich?

2 Do you swear an oath to the accuracy of
3 the statements in the affidavit under the threat
4 of perjury?

5 That oath is similar to the oath you
6 took here today, isn't it?

7 In fact, you take your statement here
8 under oath very seriously, don't you?

9 If you were not certain that the
10 statements were made by Governor Blagojevich,
11 you would not have allowed these statements to
12 be included in your affidavit, would you?

13 THE WITNESS: The answer to question
14 number 1, is there any doubt in my mind that
15 statements contained in the affidavit attributed
16 to Governor Blagojevich were actually made by
17 Governor Blagojevich, the answer is no.

18 Did you swear an oath to the accuracy
19 of the statements in the affidavit? Yes, I did.
20 That oath is similar to the oath I took here
21 today.

22 In fact, you take your statement under
23 oath very seriously, don't you? Yes, I do.

24 If you were not certain that statements

1 were made by Governor Blagojevich, you would not
2 have allowed those statements to be included in
3 your affidavit, would you? No, I would not have
4 attributed statements to Governor Blagojevich if
5 I did not believe those statements were made by
6 Governor Blagojevich.

7 CHIEF JUSTICE FITZGERALD: Can you
8 please read to us Paragraph 117 of your
9 affidavit?

10 THE WITNESS: Yes, I can.

11 Conclusion. Based upon the facts set
12 forth in this affidavit, I believe that there is
13 probable cause to believe that: (a) Rod
14 Blagojevich and John Harris, and others have
15 conspired with each other and with others to
16 commit offenses against the United States,
17 namely to devise and participate in a scheme to
18 defraud the State of Illinois and the people of
19 the State of Illinois of the honest services of
20 Rod Blagojevich and John Harris, in furtherance
21 of which the mails and interstate wire
22 communications would be used, in violation of
23 Title 18, United States Code, Sections 1341,
24 1343, and 1346; all in violation of Title 18,

1 United States Code, Section 1349; and (b) Rod
2 Blagojevich and John Harris, being agents of the
3 State of Illinois, a State government which
4 during a one-year period, beginning January 1,
5 2008 and continuing to the present, received
6 federal benefits in excess of \$10,000, corruptly
7 solicited and demanded a thing of value, namely,
8 the firing of certain Chicago Tribune editorial
9 members responsible for widely-circulated
10 editorials critical of Rod Blagojevich,
11 intending to be influenced and rewarded in
12 connection with business and transactions of the
13 State of Illinois involving a thing of value of
14 \$5,000 or more, namely, the provision of
15 millions of dollars in financial assistance by
16 the State of Illinois, including through the
17 Illinois Finance Authority, to the Tribune
18 Company involving the Wrigley Field baseball
19 stadium; in violation of Title 18, United States
20 Code, Sections 666(a)(1)(B) and 2. Accordingly,
21 it is requested that arrest warrants be issued
22 as detailed in this affidavit.

23 CHIEF JUSTICE FITZGERALD: I think a
24 final question. Senator Steans: If the goal of

1 your -- is it the goal of your affidavit to
2 accurately reflect what was heard on the various
3 wiretaps and microphones?

4 THE WITNESS: Yes.

5 CHIEF JUSTICE FITZGERALD: The House
6 Prosecutor may ask questions in redirect if he
7 wishes.

8 HOUSE PROSECUTOR ELLIS: I have no
9 redirect for the witness, your Honor. Thank you
10 very much.

11 CHIEF JUSTICE FITZGERALD: Special
12 Agent Cain, this time, you are excused.
13 Thank you.

14 THE WITNESS: Thank you, your Honor.
15 (Whereupon, the witness
16 was excused.)

17 CHIEF JUSTICE FITZGERALD: The witness
18 is excused. The House Prosecutor would please
19 call his next witness.

20 HOUSE PROSECUTOR KASPER: Thank you,
21 your Honor. Good afternoon. Michael Kasper
22 again on behalf of the House Prosecutor. We
23 call Chapin Rose.

1 CHIEF JUSTICE FITZGERALD: The
2 Sergeant-at-Arms will please escort
3 Representative Rose to the podium.

4 Madam Secretary, please swear in the
5 witness in accordance with Impeachment Rule 22.

6 MADAM SECRETARY: Please raise your
7 right hand and repeat after me and insert your
8 name at the proper place.

9 (Whereupon, the witness was
10 duly sworn.)

11 CHIEF JUSTICE FITZGERALD: Please take
12 your seat. The House Prosecutor may now proceed
13 with the examination of the witness.

14 CHAPIN ROSE,
15 called as a witness herein, having been first
16 duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY HOUSE PROSECUTOR KASPER:

20 Q. Good afternoon, Representative Rose.
21 Would you please identify yourself and spell
22 your name for the court reporter.

23 A. Good afternoon. My name is Chapin
24 Rose, C-h-a-p-i-n, R-o-s-e. I'm the State

1 Representative for the 110th District of
2 Illinois. I'm also a member of the
3 House Special Investigative Committee.

4 Q. And could you tell us a little bit
5 about your background?

6 A. Yes. I have a bachelor's degree from
7 the University of Illinois and also a law degree
8 from the University of Illinois. I, after
9 graduating from law school, became an Assistant
10 State's Attorney in Champaign County and ended
11 my career, before being sworn in here, as one of
12 the senior Assistant State's Attorneys for
13 Champaign County.

14 Q. And, Representative Rose, you indicated
15 that you were a member of the Special Investigative
16 Committee in the House. Did you attend the
17 committee hearings?

18 A. Yes.

19 Q. And, Representative Rose, what are you
20 here to testify about today?

21 A. I am here merely to -- and for the
22 limited role of summarizing and paraphrasing the
23 highlights of the testimony. As you know, the
24 four exhibits before us are the plea agreements

1 of Mr. Joe Cari and also Mr. Ali Ata, as well
2 as Mr. Cari's and Mr. Ata's testimony in the
3 trial, the criminal trial, of Mr. Antoin "Tony"
4 Rezko. Again, my role is limited to merely
5 summarizing and paraphrasing some of the
6 highlights, and I would encourage each Member
7 of this Body to read the entirety of those
8 documents.

9 Q. Thank you. Representative --

10 HOUSE PROSECUTOR KASPER: Ladies and
11 gentlemen, we are distributing three different
12 packets of material to accompany this witness,
13 and they're quite lengthy. They contain the
14 plea agreements of Mr. Cari and Mr. Ata, as well
15 as copies of the testimony of Mr. Cari and Mr.
16 Ata in Mr. Rezko's trial, both the direct
17 examination and the cross-examination, and we
18 are going to ask Representative Rose to briefly
19 summarize this for your convenience because
20 these documents are quite lengthy.

21 BY HOUSE PROSECUTOR KASPER:

22 Q. Now, Representative Rose, have you had
23 an opportunity to review the plea agreements and
24 transcripts pertinent to your testimony?

1 A. Yes.

2 Q. And have you been tendered a copy of
3 the packets that have been distributed to the
4 Members?

5 A. Yes.

6 Q. Okay. Are you familiar with the charges
7 to which Mr. Ata pled guilty?

8 A. I am.

9 Q. What are those charges?

10 A. Mr. Ata pled guilty to two charges.

11 The first was making a materially false
12 statement to a federal law enforcement officer.

13 I would highlight two facts that led to that
14 charge and his ultimate plea of guilty. The
15 first was he made a statement that he was not
16 -- excuse me, that Mr. Tony Rezko was not the
17 person who helped him obtain his position at
18 what became the Illinois Finance Authority when,
19 in fact, he knew that Mr. Rezko was instrumental
20 in his obtaining that position at Illinois
21 Finance Authority.

22 The second was that he made a statement
23 to the government that he did not receive
24 anything in return for his campaign contributions

1 to what in that document referred to
2 Public Official A, but was later in his
3 testimony revealed as Governor Blagojevich's
4 campaign fund or then-Candidate Blagojevich's
5 campaign fund, when, in fact, he had. The
6 second charge to which he pled guilty was
7 making false statements on his tax return.

8 Q. And what are the terms of Mr. Ata's
9 plea agreement?

10 A. The terms of Mr. Ata's plea agreement
11 essentially are that he provide truthful and
12 complete testimony, and cooperation, assistance
13 in essentially anything the government might ask
14 him. This could be anything from additional
15 follow-up questions by a particular agent all
16 the way up to and including testimony in a
17 criminal proceeding.

18 In return for that, for his truthful
19 cooperation, he was to receive what's called
20 a downward departure, a recommendation to the
21 Court that he receive a downward departure. I
22 am not an expert in federal criminal law, but I
23 can tell you from my law school days that my
24 understanding of a downward departure is that

1 that would somehow reduce his sentence, his
2 ultimate sentence he would receive. And that in
3 return for his cooperation, he would receive that
4 -- a downward departure, also, that the government
5 would make no specific recommendation as to sentence
6 and that they would forego prosecuting him on other
7 possible charges.

8 Q. And what would happen if Mr. Ata were
9 to lie to the U.S. Attorney during an
10 investigation?

11 A. I would not presume to answer for the
12 U.S. Attorney's Office, but I would state that
13 the agreement is clear that the U.S. Attorney
14 can then rescind the entire agreement, which
15 would then subject Mr. Ata to the original
16 penalties, plus, perhaps, the inclusion of new
17 charges. All the things that he was promised
18 would then be off the table because the
19 agreement would have been essentially rescinded.

20 Q. And what if he were to lie in a trial
21 before a Court?

22 A. Again, he could be subjected to what I
23 just stated, but then also the possible imposition
24 of perjury, additional perjury charges at that

1 point in time.

2 Q. Okay. Representative Rose, I'd like to
3 direct your attention to Exhibit No. 7, which is
4 in the packet that has been distributed. That is
5 the testimony of Mr. Ata in the case of
6 United States v. Antoin Rezko. Are you familiar
7 with this testimony?

8 A. I've read it. Yes, I am.

9 Q. Okay. Do you know why Mr. Ata testified
10 in the trial against Mr. Rezko?

11 A. In the testimony it was stated somewhere
12 in there that he was required to do so pursuant to
13 his plea.

14 Q. And when did Mr. Ata become involved in
15 fundraising for Governor Blagojevich?

16 A. The transcript's unclear as to the
17 exact date, however, Mr. Ata did state that he
18 was approached early on by then-Candidate
19 Blagojevich and -- to assist and help in a
20 potential bid for governor. What is clear is
21 that by at least 2002, he was actively helping
22 with the fundraising operations of that campaign.

23 HOUSE PROSECUTOR KASPER: Okay. Thank you.
24 And ladies and gentlemen, as you can see, we have

1 posted a demonstrative exhibit, which contains
2 a timeline of events involving Mr. Ata's
3 involvement with the Blagojevich campaign committee
4 and his employment with the State. It is also
5 contained in the packets that have been distributed
6 to you.

7 BY HOUSE PROSECUTOR KASPER:

8 Q. Representative Rose, did Mr. Ata assist
9 Governor Blagojevich with fundraising for his
10 gubernatorial campaign?

11 A. He did. He hosted two such events and
12 also made personal contributions.

13 Q. And did Mr. Ata have a primary contact
14 within the Blagojevich fundraising team?

15 A. That would be Mr. Tony Rezko.

16 Q. And did Mr. Ata come to believe --
17 excuse me.

18 Did Mr. Ata believe that he had an
19 opportunity to work in the Blagojevich
20 administration?

21 A. Yes. He was approached by Mr. Rezko
22 in 2002 and asked if he would like to join the
23 administration. He then went and researched a
24 number of -- I think in the testimony, he indicated

1 he went to the Internet and looked at different
2 agencies and areas of State government and then
3 returned to Mr. Rezko with a list of three
4 positions that he might be interested in.

5 Q. And what were those three positions?

6 A. Those three positions, I believe, were
7 the Capital Development Board, the Department of
8 Transportation and the Department of Human
9 Services, and that was, I believe, tendered to
10 Mr. Rezko in, I believe, July of 2002.

11 Q. Okay. And did Mr. Ata make personal
12 contributions to Governor Blagojevich's political
13 campaign?

14 A. Yes, he did. And in fact, Mr. Rezko
15 asked him to make such a contribution of \$25,000.

16 Q. And did he, in fact, make that
17 contribution?

18 A. He did. He went to the offices of
19 Mr. Rezko where he presented Mr. Rezko with a
20 check for \$25,000. He was then ushered or shown
21 into a conference room at that same office complex
22 where then-Candidate Blagojevich was sitting
23 with several advisors. Eventually, those
24 advisors left the table leaving Mr. Ata, Mr.

1 Rezko and Candidate Blagojevich at the table.

2 Q. And where was the check for \$25,000?

3 A. It was on the table.

4 Q. And what happened in the conference
5 room?

6 A. Mr. Blagojevich had -- this is, again,
7 Mr. Ata's testimony that I'm summarizing. He
8 stated that Mr. Blagojevich thanked him for his
9 support and words to the effect that he had been
10 a team player. Mr. Rezko then informed
11 Mr. Blagojevich that Mr. Ata was interested in,
12 perhaps, joining the administration. The
13 Governor, again, words to the effect that Mr.
14 Ata had been a team player and then asked Mr.
15 Rezko if he had submitted a list of possible
16 positions to which Mr. Rezko replied yes.

17 Q. Okay. And thank you. And is that
18 conversation reflected on the demonstrative
19 exhibit that we have posted up there? It's in
20 the packet, for your convenience.

21 A. Yeah, I know. I haven't actually seen
22 the demonstrative exhibit. Yes.

23 Q. Thank you.

24 CHIEF JUSTICE FITZGERALD: Would it
25 help if you moved closer?

1 THE WITNESS: No. It is.

2 BY HOUSE PROSECUTOR KASPER:

3 Q. What happened next, Representative
4 Rose?

5 A. After the election, Mr. Rezko
6 approached -- after the election, Mr. Rezko
7 approached Mr. Ata and informed him that he
8 would be named to the Capital Development Board
9 and that Mr. Rezko was to fill out a
10 application, a job application, and submit it to
11 the Governor's office.

12 Q. And did Mr. Ata get the position of
13 executive director of the Capital Development
14 Board?

15 A. No, he did not. He was later informed
16 that that was most likely going to go to a
17 downstater.

18 Q. And did Mr. Rezko ever approach Mr. Ata
19 about other positions within the Blagojevich
20 administration?

21 A. Yes, later on, he did. And let's see.
22 I'm trying to think. That would have been in
23 summer of 2003, I believe, summer of 2003.
24 Mr. Rezko approached Ata and indicated that

1 there was a plan in place to consolidate a
2 number of State agencies into a single entity,
3 which later became known as the Illinois Finance
4 Authority. And Mr. Rezko asked Mr. Ata if he
5 would be interested in heading up that agency,
6 that -- the new agency.

7 Q. What did Mr. Ata respond?

8 A. Mr. Ata went back -- and again, his --
9 I think -- believe his testimony was that he
10 researched on the Internet again what some of the
11 boards and agencies that were being consolidated had
12 previously done to give him a feel for what the new
13 entity would do, and then returned to Mr. Rezko in
14 July of 2003 that he would, in fact, be interested
15 in such a position.

16 Q. What did Mr. Rezko do next?

17 A. Later in that month -- later in that
18 month, Mr. Rezko asked Mr. Ata for a \$50,000
19 campaign contribution to the Blagojevich
20 campaign fund.

21 Q. And what did Mr. Ata do in response to
22 that?

23 A. Mr. Ata stated that he could only give
24 25,000 or would only give 25,000.

1 Q. And what happened next?

2 A. He went to a fundraiser for the
3 Governor, I believe it was at Navy Pier, where
4 he tendered his contribution for \$25,000.

5 Q. And during that fundraiser, did Mr. Ata
6 have any conversations with anyone?

7 A. Yes. He had an opportunity to speak
8 with Governor Blagojevich at that event.

9 Q. And what can you tell us about that
10 conversation?

11 A. He -- and again, I'm paraphrasing and
12 summarizing, but he and the Governor had a
13 chance to talk to each other. The Governor
14 indicated he appreciated Mr. Ata's past support;
15 the Governor indicated he was aware of the new
16 contribution; the Governor indicated that he
17 also had heard that Mr. Ata may be joining the
18 administration.

19 Q. And what happened after the fundraiser?

20 A. Well, there is one more statement in
21 that, and that ultimately, again, words to the
22 effect, but the Governor said to Mr. Ata that
23 he hoped that whatever position it might be, that
24 it was one that he could make some money at.

1 Q. Okay. And thank you.

2 And what happened after the fundraiser?

3 A. Later on in 2003, I believe it was
4 October, Mr. Rezko informed Mr. Ata that he
5 would be receiving the appointment to the
6 Illinois Finance Authority. He -- and that he
7 would be receiving a call from the administration
8 to set up discussions and -- preliminary
9 discussions, things of that nature.

10 Q. And did he say with whom from the
11 administration he would be having those
12 discussions?

13 A. I don't remember if he said that, but
14 ultimately, there was a meeting with John Filan,
15 who at that point in time was the Governor's
16 chief budget director.

17 Q. And what happened after Mr. Ata met
18 with Mr. Filan?

19 A. After Mr. Ata met with Mr. Filan, he
20 went back and had another conversation with Mr.
21 Rezko at which Mr. Rezko informed Mr. Ata that
22 Mr. Ata should report to Mr. Filan -- excuse me,
23 should report to Mr. Rezko and that -- in fact,
24 that he wanted to have recurring meetings on the

1 doings and happenings of the newly formed
2 agency. And I believe at that time that
3 they had agreed to meet weekly, biweekly,
4 something of that nature.

5 Q. I'm sorry. You stated that --
6 something about Mr. Ata reporting to Mr. Rezko.
7 Would you clarify that a little bit?

8 A. Sure. I think I misstated Mr. Filan,
9 and I corrected myself. Mr. Rezko asked Mr.
10 Ata -- or, excuse me -- informed Mr. Ata that he
11 was to report to Mr. Rezko about the doings of
12 the Illinois Finance Authority.

13 Q. And when you say report, what do you
14 mean by that?

15 A. Well, in the very least that they're going
16 to have meetings, but the context of -- what I
17 took from the context of the transcript was that
18 Mr. Rezko would be calling many of the shots.

19 Q. Do you mean that Mr. Ata would take
20 direction from Mr. Rezko?

21 A. Yeah, that's what I took from it, yes.

22 Q. Okay. Thank you.

23 How much was Mr. Ata's salary as
24 executive director of the Illinois Finance

1 Authority?

2 A. The plea agreement stated that it was
3 approximately \$127,000.

4 Q. And when did Mr. Ata resign from the
5 Illinois Finance Authority?

6 A. I believe it was March of 2005.

7 Q. All right. Thank you.

8 At this point, I'd like to turn your
9 attention to the evidence received relating to
10 Joseph Cari. That's C-a-r-i.

11 Representative, did you review Exhibit
12 No. 5 of the plea agreement between the U.S.
13 Attorney and the -- and Mr. Cari?

14 A. Yes.

15 HOUSE PROSECUTOR KASPER: Ladies and
16 gentlemen, this has also been distributed in the
17 packets for your consideration.

18 BY HOUSE PROSECUTOR KASPER:

19 Q. And, Representative, are you familiar
20 with the charges to which Mr. Cari pled guilty?

21 A. I am.

22 Q. And what are those charges?

23 A. He pled guilty to the attempted
24 extortion of what in the plea agreement is

1 referred to as Firm 4, but he later identified
2 in the transcript as a company called JER, and
3 JER was attempting to gain business with the
4 State of Illinois, specifically the Teachers'
5 Retirement System.

6 Q. Are you familiar with the terms of
7 Mr. Cari's plea agreement?

8 A. I've reviewed them.

9 Q. And what are those terms?

10 A. Essentially the same as Mr. Ata,
11 that he would provide truthful and complete
12 cooperation with the federal government in
13 anything from follow-up questions of agents to
14 criminal testimony. He would also, like Mr. Ata,
15 receive a downward departure in the sentencing
16 motion by the government to the Court at sentencing
17 in return for his cooperation. Additionally,
18 like Mr. Ata, the government waived the ability
19 to prosecute any other charges they may have
20 been able to bring at that point in time against
21 him.

22 I think the only thing that was really
23 different, and I'm not sure that it's relevant to
24 the proceeding, but -- was that the government did

1 not agree to sit silent at sentencing. They
2 agreed to make a certain specific sentencing
3 recommendation but --

4 Q. By downward departure, do you
5 understand that to mean a reduced sentence?

6 A. Yes. Again, generally, that's my
7 understanding, yes.

8 Q. Okay. And I'd like to direct your
9 attention to Exhibit No. 8. Have you been
10 tendered a copy of that? That's Mr. Cari's
11 testimony in the case of U.S. v. Rezko.

12 A. I have.

13 Q. Are you familiar with that testimony?

14 A. I've reviewed it. Yes.

15 Q. Representative, where did Mr. Cari's
16 involvement with the Governor's political
17 committee begin?

18 A. Mr. Wilhelm, David Wilhelm called
19 Mr. Cari in 2003 and asked him if he would meet
20 with some of the key players around Governor
21 Blagojevich, principally, Mr. Christopher Kelly
22 and Mr. Tony Rezko.

23 Q. And do you understand what role
24 Mr. Wilhelm played in the Governor's political

1 committee?

2 A. Mr. Cari testified that he and Mr.
3 Wilhelm had been good friends for a number of
4 years, and that his understanding was that Mr.
5 Wilhelm was the chairman of the Governor's
6 campaign or some similar high-ranking position
7 and that his doings with Mr. Blagojevich then
8 carried on into the new administration as part
9 of a transition team or somehow in the transition.

10 Q. And what did Mr. Wilhelm ask Mr. Cari
11 to do?

12 A. Again, he asked him to meet with some of
13 the principals and specifically he wanted him to
14 meet with Chris Kelly to talk about -- maybe
15 some context that would be helpful here.

16 Mr. Cari, as you may or may not know,
17 was a former Democrat National Committee Finance
18 Chairman, and Mr. Wilhelm wanted Mr. Cari to
19 meet with Mr. Kelly to discuss his experiences
20 and his -- you know, essentially his
21 experiences as what it takes to run a national
22 campaign and raise money on a national level.

23 Q. And did Mr. Cari meet with Mr. Kelly?

24 A. He did. I believe that was in late

1 August of 2003.

2 Q. And what did they discuss?

3 A. At that meeting, it was exactly as sort
4 of stated, that they talked about his experiences
5 and sort of what it might take, you know, the
6 general nature of running a national campaign and
7 raising money at a national level. Mr. Kelly
8 concluded by stating words to the effect that he
9 thought Mr. Cari could be beneficial to Mr. Blagojevich
10 in the future and that they'd stay in touch or
11 follow up or something to that effect.

12 Q. Thank you.

13 Now, Representative, does the evidence
14 reference someone named Stuart Levine?

15 A. It does. Shortly after the meeting
16 with Mr. Kelly, in early September, Mr. Levine
17 and Mr. Cari met.

18 Q. Excuse me, Representative. Who is
19 Stuart Levine?

20 A. Stuart Levine was a member of the
21 Teachers' Retirement System and was assisting
22 Governor Blagojevich's fundraising efforts.

23 Q. Okay. I'm sorry to interrupt. Do
24 you want to continue with your answer?

1 A. Um, Mr. -- he met with Mr. Levine, and
2 Mr. Levine's questions were very similar to
3 Mr. Kelly's, the general nature of running a
4 national campaign in terms of raising money at
5 a national level. They discussed -- I think he
6 even mentioned databases at one point in time.
7 But in any event, Mr. Cari -- excuse me -- Mr.
8 Levine took notes on note cards and then concluded
9 by saying that he thought this would be very
10 helpful and would report it back to Mr. Rezko.

11 Q. After these meetings, did Mr. Wilhelm
12 ask Mr. Cari to do anything in particular for
13 the Governor's political campaign?

14 A. Yes. At some point in time, Mr.
15 Wilhelm called Mr. Cari and asked him to help
16 organize a fundraiser in New York for the
17 Governor. Mr. Cari agreed to do this and called
18 a friend of his, a Mr. McCall. Mr. McCall was
19 apparently the former comptroller of the State
20 of New York, and Mr. McCall had agreed to help
21 host this event and the event was then set up.

22 Q. Does the evidence divulge why Mr. Cari
23 thought it would be a good idea to help Mr. --
24 to help the Governor?

1 A. Could you repeat that? I'm sorry. I
2 didn't hear that.

3 Q. Does the evidence divulge why Mr. Cari
4 believed it was a good idea to help the Governor
5 raise funds?

6 A. Mr. Cari stated that there were a number
7 of reasons, but one was that his law firm did a lot
8 of business with the State of Illinois.

9 Q. And did Mr. Levine speak with Mr. Cari
10 about the New York fundraiser?

11 A. Yes. In fact, he, at one point in time
12 had indicated he was very excited about the event
13 and that he had hoped to use his personal plane to
14 take the Governor and Mr. Levine out to New York
15 and extended an invitation to Mr. Cari to come
16 along with them on that ride.

17 Q. And did that, in fact, happen?

18 A. Yes. According to his testimony, it
19 did.

20 Q. Do you know when the fundraiser
21 occurred?

22 A. I believe it was in October of that
23 year.

24 Q. And what happened during the plane

1 ride?

2 A. Mr. Cari had an opportunity to -- had
3 the opportunity to sit sort of privately with
4 the Governor for a 20 or 30-minute period of
5 time, and they had a discussion that had started
6 off sort of generally about politics in general,
7 and then it came down to the Governor had
8 expressed, perhaps, aspirations for higher
9 office, which Mr. Cari took to mean the
10 presidency. And the Governor extended that he
11 had sort of watched Bill Clinton's rise to the
12 presidency as a governor, and that -- again, I'm
13 paraphrasing, but that there would be in the --
14 that there would be some advantage to run for the
15 presidency as having come from a governorship as
16 opposed to, say, a United States Senator.

17 Q. And why would there be that advantage?

18 A. Again, the Governor's -- paraphrasing,
19 but that the Governor basically said that that
20 advantage would be because he could award
21 contracts to people who helped raise funds.

22 Q. Contracts for what types of work? For
23 legal work?

24 A. Thank you. Let's be clear. For State

1 work and -- sorry. I didn't understand the --

2 Q. Why don't we go back to the beginning.
3 Why did Mr. Cari state that -- why did the
4 Governor believe it would be easier for him to
5 raise funds as a governor?

6 A. Again, because the Governor had -- that
7 it would be -- he would be able to award State
8 contracts to essentially campaign contributors.

9 Q. State contracts for legal work?

10 A. Yes.

11 Q. And advisory work?

12 A. Yes.

13 Q. And consulting work?

14 A. Yes.

15 Q. And investment banking work?

16 A. Yes. And I'm sorry. I apologize here,
17 Mike. I'm trying to deal with this button.

18 Investment banking work, yes.

19 Q. Okay. Thank you. I'd like to direct your
20 attention to Exhibit No. 8, Page 31, Line 14.

21 A. Page 31, Line 14?

22 Q. Page 31, Line 14 of Exhibit No. 8,
23 which is Mr. Cari's testimony. Could you please
24 tell us how the Governor explained how this made

1 things easier to raise funds?

2 A. Sure. And I'm going to quote now from
3 the testimony of Mr. Ata: Quote, That because
4 a Governor had the ability to award contracts,
5 that it was much easier to solicit people for
6 contributions, end quote.

7 Q. I'm sorry. I believe that you
8 referenced Mr. Ata.

9 A. Thank you. This is Mr. Cari's
10 testimony.

11 Q. Thank you.

12 A. That was a direct statement of Mr.
13 Cari in his testimony against Mr. Rezko in
14 the criminal proceeding. Thank you for that
15 correction.

16 Q. And did Governor Blagojevich say
17 anything about Mr. Rezko and Mr. Kelly?

18 A. Yes, that they were trusted advisors,
19 that he expected them to be with him throughout
20 his public service career and that they were
21 sort of key players in his fundraising.

22 Q. And did Governor Blagojevich ask Mr.
23 Cari to help them with fundraising?

24 A. Ask Mr. Cari?

1 Q. Yes.

2 A. Yes.

3 Q. And turning your attention to Page 32,
4 Line 6, would you please quote from Mr. Cari's
5 testimony?

6 A. From Mr. Cari's testimony, this
7 question is from, I believe, the United --
8 Assistant United States Attorney. Quote, And what,
9 if anything, did he say in relation to how they
10 might help his friends?, end quote. And the
11 answer from Mr. Cari, quote, That there were
12 contracts, that there was legal work, that there
13 was investment banking work, consulting work to
14 give to people who helped them, end quote.

15 Q. And did Mr. Cari explain who he was
16 referring to when he said, quote, them, close
17 quote?

18 A. Yes. The Governor and the people
19 around him, principally Mr. Rezko and Mr. Kelly.

20 Q. And what was Mr. Cari's reaction to
21 the conversation with the Governor?

22 A. He indicated he was surprised for a
23 number of reasons. One was he had actually
24 supported Mr. Blagojevich's opponent in the

1 election and that he thought that this was
2 the type of conversation to have with -- to
3 paraphrase again, words to the effect of
4 long-standing friend, close confidant, something
5 like that.

6 Q. And did Mr. Cari have a conversation
7 with anyone else that same day?

8 A. Yes. Later that evening at the
9 fundraiser, he had the opportunity to talk to
10 Mr. Levine.

11 Q. Okay. And, Representative Rose, for a
12 final quotation, I'd like to direct your attention
13 to Page 39, Line 10. Could you please share with
14 the Senate Mr. Cari's response to the U.S.
15 Attorney's question about that conversation?
16 This is, again, at Page 39, Line 10.

17 A. At Line 10, the question, quote, What
18 did you and Mr. Levine discuss that evening?,
19 end quote. And the answer, quote, Mr. Levine
20 shared with me that there was a plan in place
21 that they wanted to implement in terms of
22 fundraising; that there was going to be
23 consultants and lawyers and investment bankers
24 that would be picked by the administration or

1 people around the administration; and that those
2 people then would be in return solicited for
3 political contributions. It was also told to me
4 that the people around the Governor would pick
5 consultants who wanted to do business --
6 consultants for companies who wanted to do
7 business with a variety of the State boards; and
8 that eventually the Blagojevich administration
9 would have control of all of the State boards,
10 end quote.

11 Q. And, Representative, during this
12 conversation, did Mr. Levine indicate who would
13 be picking these lawyers, investment bankers and
14 other contractors?

15 A. Mr. Rezko and Mr. Kelly.

16 Q. Okay. And, Mr. -- Representative Rose,
17 are you familiar with the events that led to Mr.
18 Cari's guilty plea?

19 A. Yes. And to summarize and paraphrase
20 briefly just the highlights, Mr. Levine had
21 asked Mr. Cari to talk to the principals of JER
22 and inform them that they would not be receiving
23 business if they didn't hire a preferred
24 consultant.

1 Q. What types of business are you
2 referring to?

3 A. At that time, it's my understanding
4 that they were soliciting business from the State
5 Teachers' Retirement System and that -- that that
6 -- that they -- in order to obtain that contract,
7 they would need to hire the preferred consultants.

8 Mr. Cari then called the principals,
9 some of the principals, on more than one
10 occasion and conveyed that message that if they
11 did not hire a preferred consultant, they would
12 not, in turn, receive State business.

13 Q. And you say that they called the
14 principals. The principals of whom?

15 A. Of JER. There was -- in fact, the
16 testimony I don't think ever concluded
17 -- there was a Mrs. Harmon, but I don't know
18 if they ever concluded if she was the CEO or
19 COO or whatever her exact status was, but he
20 did have a conversation with Ms. Harmon and
21 then also later on with the general counsel,
22 and I believe a -- a separate conversation -- I
23 believe a separate conversation with outside --
24 with general counsel and then also their outside

1 counsel.

2 Q. And during his testimony, did Mr. Cari
3 indicate why he told JER that they needed to
4 hire a consultant selected by Mr. Levine?

5 A. To paraphrase, he said that that's
6 because that's how it's done in Illinois and
7 that in Illinois, the Governor and the people
8 around the Governor pick the consultants.

9 HOUSE PROSECUTOR KASPER: Thank you,
10 Representative. I have no further questions.

11 THE WITNESS: Thank you.

12 CHIEF JUSTICE FITZGERALD: Per Senate
13 Resolution 7, the Governor or his counsel have
14 the right to conduct a cross-examination of this
15 witness. However, as neither the Governor nor
16 counsel on his behalf have appeared, there can
17 be no cross-examination. Therefore, we will
18 proceed directly to the taking -- to take
19 written questions from the Senators regarding
20 the testimony of this witness.

21 President Cullerton, for what purpose
22 do you rise?

23 PRESIDENT CULLERTON: Thank you,
24 Mr. Chief Justice. My counterpart and

1 I have conferred, and it's the request that we
2 have a short caucus, probably no longer than one-
3 half hour for the purposes of determining whether
4 or not we have any questions for this witness.

5 CHIEF JUSTICE FITZGERALD: All right.
6 The Senate will -- I would note that a half hour
7 is perfectly agreeable to me.

8 Senator Radogno, you're in agreement
9 with this?

10 SENATOR RADOGNO: Yes.

11 CHIEF JUSTICE FITZGERALD: Each party
12 will then meet in a caucus for one-half hour.
13 The Senate will stand in recess to the call of the
14 chair during the caucus. We will return to the
15 caucus {sic} at the hour of -- a couple minutes
16 to 5:00. The Senate stands in recess to the call
17 of the chair.

18 (Whereupon, a short recess
19 was taken.)

20 CHIEF JUSTICE FITZGERALD: The Senate
21 will come to order. I've been advised by the
22 leadership that they would prefer to put this
23 matter over till tomorrow.

24 Oh, I'm sorry. I'm not accustomed to

1 that.

2 Senator Cullerton.

3 PRESIDENT CULLERTON: Yes. Thank you,
4 Mr. Chief Justice. It's my understanding at the
5 request of the Republicans that they wanted
6 to not pose any questions at this time to the
7 witness, but rather, to come back tomorrow after
8 they've had an opportunity to review the
9 documents that were submitted to us surrounding
10 the testimony of Chapin Rose. So it's my
11 suggestion that we accommodate them, but that we
12 would come in a half hour earlier than we
13 otherwise would have, and that we come back
14 tomorrow for the impeachment proceedings to
15 begin at 9:30. Our regular session would begin
16 at 9:15. That would be my suggestion to the
17 Chief Justice.

18 CHIEF JUSTICE FITZGERALD: The
19 impeachment tribunal will -- Senator Radogno?

20 SENATOR RADOGNO: Thank you. I just
21 wanted to express my appreciation to Senator
22 Cullerton for taking into consideration our concern
23 that we received a lot of documents just within
24 the last few minutes, and we have Members that

1 really are taking this very seriously and want
2 to have an opportunity to review those. And
3 consequently, we would be very grateful to have
4 the evening to review and do questions tomorrow
5 of this witness.

6 CHIEF JUSTICE FITZGERALD: On this
7 motion, is there leave? Hearing no objection,
8 it will be granted. The impeachment tribunal
9 will stand in recess until the hour of 9:30 a.m.,
10 tomorrow, Wednesday morning, January 28th, 2009.
11 At the appointed time, I will reconvene the
12 Senate as an impeachment tribunal for further
13 presentation of witnesses by the House
14 Prosecutor.

15 Mr. President.

16 PRESIDENT CULLERTON: There being no
17 further business to come before the Senate, the
18 Senate stands adjourned until the hour of 9:15
19 a.m. on Wednesday, January 28, 2009. The Senate
20 stands adjourned.

21 (Whereupon, the proceedings were
22 continued to January 28, 2009
23 at 9:15 a.m.)
24

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4

5 Gina M. Luordo and Brenda S. Tannehill
6 being first duly sworn, on oath say that they
7 are court reporters doing business in the City
8 of Chicago; and that they reported in shorthand
9 the proceedings of said hearing, and that the
10 foregoing is a true and correct transcript of
11 their shorthand notes so taken as aforesaid, and
12 contains the proceedings given
13 at said hearing.

14
15

GINA M. LUORDO, CSR, RPR, CRR

17
18

BRENDA S. TANNEHILL, CSR, RPR, CRR

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