

Transcript of the Testimony of Mark C. Rathbun

Date: December 22, 2014

Case: Luis A. Garcia Saz, et al v. Church of Scientology religious Trust,
et al

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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA TAMPA DIVISION

LUIS A. GARCIA SAZ and) MARIA DEL ROCIO BURGOS,))
Plaintiff(s),)) VS.) NO. 8:13-CV-220-T27-TBM

) CHURCH OF SCIENTOLOGY) RELIGIOUS TRUST; CHURCH OF)
SCIENTOLOGY FLAG SERVICE) ORGANIZATION, INC.,)) Defendant(s).
) *****

ORAL AND VIDEOTAPED DEPOSITION OF

MARK C. RATHBUN

DECEMBER 22, 2014

ORAL AND VIDEOTAPED DEPOSITION of MARK C. RATHBUN,
produced as a witness at the instance of the
Defendant(s), and duly sworn, was taken in the
above-styled and numbered cause on the 22nd day of
December, 2014, from 9:14 a.m. to 5:33 p.m., before
Dicie Lee Eytcheson, CSR in and for the State of
Texas, reported by machine shorthand, at the law
offices of CLEMENS & SPENCER, 112 E. Pecan, Suite
1300, San Antonio, Texas 78205, pursuant to the
Federal Rules of Civil Procedure and the provisions
stated on the record or attached hereto.

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1 A P P E A R A N C E S

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FOR THE PLAINTIFF(S): LUIS A. GARCIA SAZ AND MARIA DEL 3
ROCIO BURGOS

4 MR. THEODORE BABBITT (via Telephone)

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7

FOR THE DEFENDANT(S): CHURCH OF SCIENTOLOGY FLAG 8 SERVICE
ORGANIZATION, INC.

9 MR. BERT H. DEIXLER (PRO HAC VICE)

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Los Angeles, California 90067 11 PH: (310)556-2700

12

The Videographer: 13

LOUIS SOUCIE 14

15 Also Present:

16 SARAH HELLER

NEIL LEVIN 17 BEN SHAW

PHILLIPE PEDERSEN (via Live Depo) 18 ERIC LIEBERMAN
(via Live Depo)

GREG SHULMAN (via Live Depo & Telephone) 19 VANESSA
WHEELER (via Live Depo)

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09:14 1 THE VIDEOGRAPHER: Good morning. Today is
2 December 22nd, 2014. The time is 9:14, we are on the
3 record. I'm Louis Soucie, the videographer. Our court
4 reporter is Dicie Eytcheson. We are here in San
09:14 5 Antonio, Texas, for the deposition of Mr. Marty Rathbun
6 in Case No. 8:13-CV-220 T27 TBM to be heard -- to be
7 heard in the United States District Court, Middle
8 District of Florida, Tampa Division, Luis A. Garcia Saz,
9 and wife, Maria Del Rocio Burgos Garcia, Plaintiff(s)
09:14 10 versus The Church of Scientology Religious Trust and
11 Church of Scientology Flag Service Organization, Inc.
12 If counsel would please introduce
13 themselves and whom they represent.

14 MR. DEIXLER: Bert Deixler of Kendall,
09:15 15 Brill & Klieger on behalf of Flag Service Organization,
16 Inc. I'm assisted by Sarah Heller. Would you -- Let's
17 have the persons present also identify themselves. Neil
18 Levin?

19 MR. LEVIN: Neil Levin.

09:15 20 MR SHAW: Ben Shaw.

21 MR. DEIXLER: Okay.

22 THE WITNESS: And who do you represent?

23 MR. DEIXLER: Mr. Babbitt? Mr. Babbitt,
24 are you on? Mr. Babbitt?

09:15 25 Well, I'm told that Ted Babbitt is

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09:15 1 representing the Plaintiffs in the case. He was on the
2 phone. I can't tell whether he's still on or not. We
3 had no response. I think it's time, however, for us to
4 proceed.

09:16 5 Can we begin by swearing witness.

6 MARK C. RATHBUN,

7 having been first duly sworn, testified as follows:

8 EXAMINATION

9 BY MR. DEIXLER:

09:16 10 Q. Good morning, Mr. Rathbun. Mr. Rathbun, do you
11 understand your testimony today is under oath and
12 subject to the penalty of perjury?

13 A. Yes.

14 Q. How did you prepare for your testimony?

09:16 15 A. First, I want to clear something up for the
16 record. My name is Mark --

17 MR. BABBITT: Hello? Hello?

18 A. My name is Mark Rathbun, M-A-R-K.

19 MR. DEIXLER: Hello.

09:16 20 MR. BABBITT: Hello?

21 A. Not Marty. Marty is a nickname.

22 MR. BABBITT: Hello? Hello?

23 MR. DEIXLER: Yes. Hello.

24 MR. BABBITT: Hi. The videographer's

09:16 25 voice trailed off and then went blank, so I'm back.

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09:16 1 MR. DEIXLER: Okay. We had introductions.

2 Is this Mr. Babbitt again?

3 MR. BABBITT: It is.

4 MR. DEIXLER: Okay. So Mr. Rathbun has

09:16 5 just been sworn; and my question to him was, how have

6 you prepared for your testimony and he's about to

7 answer. You're up to date.

8 MR. BABBITT: Okay. Let's just hang on

9 just a minute, please. I need a number that I can call

09:17 10 in case this happens again. And I was given the

11 videographer's number but, when I called, the line was

12 busy. So if you could ask the videographer, please, to,

13 whatever he's doing to his phone, clear it so that, in

14 case this happens again, I can notify you that I'm off

09:17 15 the line.

16 THE VIDEOGRAPHER: Mr. Babbitt, this is

17 Louis, the videographer. I believe my phone should be

18 working, sir, and I do have it available.

19 MR. BABBITT: Okay. I -- I -- I just -- I

09:17 20 just called you when it went blank and it was busy.

21 MR. DEIXLER: All right. Well, we'll hope

22 for no further interruptions and all will be well.

23 Q. (BY MR. DEIXLER) Mr. Rathbun --

24 A. Is CSI a party in this case?

09:17 25 Q. Yes. Tell me if you will --

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09:17 1 A. She said no. She just --

2 Q. Tell me --

3 A. She said --

4 Q. It doesn't matter. Mr. Rathbun, rather than --

09:17 5 A. It -- it does -- it does matter.

6 Q. Rather than --

7 A. Because you have the legal executor for the

8 Church of Scientology International sitting to your left

9 who also attends all of the hearings and depositions in

09:17 10 my wife's lawsuit with that entity.

11 Q. Sure.

12 A. So who is he representing?

13 Q. About whom are you speaking? Mr. Levin?

14 A. Mr. Levin, yeah.

09:18 15 Q. Mr. Levin is representing the ship which is a

16 party to the case. So let's proceed.

17 MR. BABBITT: Now, I can't hear you, guys.

18 I know you're talking to each other, but I -- I'd

19 appreciate it if you'd either move the mic or talk -- or

09:18 20 talk a little louder.

21 THE WITNESS: He said that Neil Levin's

22 representing the ship, though he's in the legal

23 department for Church of Scientology International.

24 And Mr. Shulman is he here?

09:18 25 MR. DEIXLER: No, he's not.

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09:18 1 THE WITNESS: Okay.

2 Q. (BY MR. DEIXLER) Okay. So let's get going.

3 The question was how did you prepare for your
4 testimony, Mr. Rathbun?

09:18 5 A. I read my declaration.

6 Q. And which declaration --

7 A. And --

8 Q. -- did you read?

9 A. My declaration in this lawsuit.

09:18 10 Q. Okay. Did you read anything else?

11 A. I read the deposition of Ken Webber. I think
12 it's Ken Webber. Whoever Mr. Webber was who put a
13 declaration for you-all in this case. And I think I
14 read -- I kind of skimmed over the Mike Ellis
09:19 15 declaration.

16 Q. Did you do anything else to prepare for your
17 testimony?

18 A. No.

19 Q. Okay. Did you speak with anybody in order to
09:19 20 prepare for your testimony?

21 A. I spoke to Mr. Babbitt on Friday. I think it
22 was Friday. Thursday or Friday.

23 Q. And what did you say to Mr. Babbitt and he to
24 you?

09:19 25 A. I said that -- Well, I asked him, you know, how

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09:19 1 the Court would manage this deposition because of your
2 client's history of using -- abusing the litigation
3 process, including your own, in an unethical and immoral
4 fashion, how would -- how much would the Judge keep this
09:19 5 limited to the issues in this case; and he said that he
6 would -- he was -- made it pretty clear that it should
7 be limited to the issues in this case.

8 Q. What else did you discuss with Mr. Babbitt?

9 A. I think that's about it.

09:19 10 Q. Okay. About how long did that conversation
11 last?

12 A. Probably about fifteen minutes.

13 Q. Okay. You've told me everything that you can
14 recall about the conversation you and Mr. Babbitt had on
09:20 15 this past Friday; is that true?

16 A. Pretty much, yeah.

17 Q. Okay. If you wanted to refresh your memory
18 about anything else that was discussed by you and
19 Mr. Babbitt on that occasion, to what, if anything,
09:20 20 would you refer?

21 A. I would ask Mr. Babbitt.

22 Q. You didn't make any notes of the conversation?

23 A. No.

24 Q. Other than Mr. Babbitt with whom have you
09:20 25 spoken about the subject matter of your testimony?

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09:20 1 A. About the subject matter?

2 Q. Yes, sir.

3 A. Of my testimony, nobody.

4 Q. Okay. Did you speak to Mr. Rinder about it?

09:20 5 A. No.

6 Q. Okay. When is the last time you and Mr. Rinder

7 discussed anything pertaining to this litigation?

8 A. Probably about the time I did my declaration.

9 Q. Which declaration is that?

09:20 10 A. The declaration in this case.

11 Q. There are two declarations in this case.

12 A. Oh, I didn't realize that.

13 Q. Have you brought with you some documents, sir?

14 A. Yeah. I brought the declaration somewhere.

09:20 15 That's the Webber declaration. (Indicating.) 19

16 April 2013.

17 Q. The declaration which you refer to as having

18 reviewed, and which you have now in front of you, is

19 dated April 2013?

09:21 20 A. Uh-huh.

21 Q. Yes?

22 A. Uh-huh.

23 Q. Okay. Well, let me, if I might, just take a

24 look at it just to make sure we're on the same -- same

09:21 25 page.

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09:21 1 A. (Witness hands document.)

2 Q. This is a document that appears to have been
3 executed the 19th of April 2013 in Bulverde, Texas. Are
4 we discussing the same document?

09:21 5 A. Correct.

6 Q. Okay. And this was a document that you
7 prepared, correct?

8 A. Yes.

9 Q. Okay. And let me ask you, sir, do you agree
09:21 10 with the notion that the fundamental precept of the
11 Church of Scientology is that honesty is a critical
12 element of an ethical life?

13 A. Absolutely not.

14 Q. You don't agree with that?

09:21 15 A. No.

16 Q. Did you ever represent that to anybody?

17 A. Yeah. I did in a declaration --

18 Q. Okay. And --

19 A. -- for -- for Scientology.

09:22 20 Q. And today you don't believe --

21 MR. BABBITT: You guys are going to have
22 to speak up. I can barely hear you. Put the mic closer
23 to you.

24 THE WITNESS: Can you hear me better now?

09:22 25 MR. BABBITT: Yes. Much better.

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09:22 1 THE WITNESS: Okay.

2 Q. (BY MR. DEIXLER) And did you believe that it
3 was critical to maintain the highest level of ethical
4 behavior and to be completely honest in order to do
09:22 5 well in life and to set an example for others?

6 A. Me?

7 Q. Yes, sir.

8 A. Yeah.

9 Q. Okay. You still believe that to be true?

09:22 10 A. Yeah.

11 Q. Did you believe that during the time you were a
12 member of the Church of Scientology?

13 A. Yeah.

14 Q. How are you presently employed?

09:22 15 A. I buy and sell used material. I write. That's
16 pretty much what I do now.

17 Q. You buy and sell used material. What kind of
18 used material?

19 A. Furniture.

09:22 20 Q. Anything else?

21 A. Furniture is the main thing. But I go to
22 auctions, I go to estate sales, I sell them. When I --
23 when I -- when I find a good bargain, I resale it.

24 Q. Anything else?

09:23 25 A. No.

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09:23 1 Q. Okay. And what about your writing, what kind
2 of writing do you do?

3 A. I've written three books on Scientology.

4 Q. Yeah.

09:23 5 A. And from time to time I do writing assignments
6 with online writing assignment deals where they pay you
7 by the assignment.

8 Q. I see. Are you employed by the media?

9 A. No.

09:23 10 Q. Are you a freelancer for the media?

11 A. No.

12 Q. Do you write articles about the Church of
13 Scientology?

14 A. I haven't in some time.

09:23 15 Q. You regard yourself as a critic of the Church
16 of Scientology?

17 A. No.

18 Q. Regard yourself as an enemy of the Church of
19 Scientology?

09:23 20 A. No.

21 Q. Regard yourself as an enemy of David Miscavige?

22 A. No.

23 Q. Is that somebody you dislike?

24 A. Not necessarily.

09:23 25 Q. Is that somebody you publicly criticize?

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09:24 1 A. I've publicly disclosed facts about him, yeah.

2 Q. Do you publicly criticize him, sir?

3 A. I don't know if you would have called it

4 criticism. That's your characterization.

09:24 5 Q. Have you likened him to famous criminals?

6 A. Perhaps.

7 Q. You're not sure?

8 A. It would be a good -- it would -- it would be a

9 good analogy.

09:24 10 Q. He -- Mr. Miscavige was once your friend,

11 correct?

12 A. So I thought.

13 Q. Okay. And a good friend of yours, correct?

14 A. So I thought.

09:24 15 Q. And a person who -- who assisted you in your

16 career; is that also true?

17 A. Not necessarily.

18 Q. You are --

19 A. No. Everything is about -- there's no -- David

09:24 20 Miscavige doesn't assist anybody without a motivation,

21 and it's always -- so it's really a one-way flow. I

22 actually helped him with his career.

23 Q. You helped him but he didn't help you?

24 A. Really.

09:24 25 Q. Okay.

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09:24 1 A. Yeah.

2 Q. But you -- so you don't have any ill will
3 toward him, correct?

4 A. No.

09:24 5 Q. Okay. You never, for example, likened him to
6 Adolph Hitler, true?

7 A. Well, that's two different questions. Just
8 your intonation makes it sound like it's two different
9 things. And the answer to likening him to Adolph

09:25 10 Hitler -- Absolutely. Yes.

11 Q. Okay.

12 A. I have. But that doesn't connote hate or
13 dislike. It just -- it just is what it is.

14 Q. And what does that mean, sir?

09:25 15 A. You don't -- you didn't understand what I said?

16 Q. Right. That's what I asked.

17 A. Well, you probably ought to read it back. I --

18 I can't -- I just said what I said.

19 Q. Okay.

09:25 20 A. Pretty simple English.

21 Q. How about Joseph Stalin? Did you liken him to
22 Joseph Stalin?

23 A. Yeah. Yes.

24 Q. Did you liken him to Ayatollah Khomeini?

09:25 25 A. Yes.

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09:25 1 Q. And -- and what do you mean by those
2 comparisons of Mr. Miscavige if --

3 A. Oh.

4 Q. -- you -- if it doesn't mean --

09:25 5 A. What I --

6 Q. -- you dislike him?

7 A. What -- what it means is, is there's parallels
8 in their behavior that are -- that are very direct.

9 Q. When did you observe that Mr. Miscavige was to
09:25 10 be likened to Adolph Hitler?

11 A. When did I what now? Can you repeat that
12 question?

13 Q. Sure.

14 MR. DEIXLER: Madam Reporter, would you
09:26 15 please read the question to the witness?

16 (Requested portion read.)

17 A. On and off between 1982 and 2004. More
18 intensively between 2000 and 2004; and even more
19 intensively in 2003 and 2004.

09:26 20 Q. (BY MR. DEIXLER) Would it be fair to say that
21 during many of the times that you were with the Church
22 of Scientology that you enjoyed your position?

23 A. I enjoyed my position?

24 Q. Yes, sir.

09:26 25 A. I suppose so, yeah.

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09:26 1 Q. Yeah. And you believed yourself to be among
2 the leaders of the Church of Scientology?

3 A. Correct.

4 Q. And there came a time when you were subject to
09:27 5 discipline by the Church of Scientology; is that true?

6 A. Incorrect.

7 Q. Never disciplined by the Church of Scientology?

8 A. I don't know. Maybe not.

9 Q. Okay. Let me try to get a sense of when you
09:27 10 were with the Church of Scientology and when you left
11 and the like. Could you tell me briefly when you became
12 a member of the Church of Scientology?

13 A. It was probably in September 1977.

14 Q. Okay. And when did you cease being a member of
09:27 15 the Church of Scientology?

16 A. December -- Second week of December 2004, I
17 would say.

18 Q. Okay. And during this period from 1977 to
19 2004, tell us, if you will, briefly what positions you
09:27 20 held.

21 A. Purchaser for renovations project.

22 Q. And what time period was the purchaser of
23 renovations?

24 A. 1978. I worked in L. Ron Hubbard External
09:28 25 Communication between -- after that, from '79 to '81.

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09:28 1 Q. And tell me what your responsibilities were
2 when you were working for L. Ron Hubbard External
3 Communication, sir?

4 A. Responsibilities were to handle the
09:28 5 communications of -- to and from Hubbard's secret
6 locations in such a fashion that he couldn't be tracked
7 by process servers, or the FBI, or the media, or
8 actually even any scientologist, anybody who was --

9 Q. Did you ever speak to Mr. Hubbard?

09:28 10 A. No.

11 Q. Okay. Did you -- did you ever receive a
12 writing from Mr. Hubbard?

13 A. I wasn't done with my answer, but... so, I
14 mean...

09:28 15 Q. Did you ever receive a writing from
16 Mr. Hubbard?

17 MR. BABBITT: Yeah.

18 THE WITNESS: What was that, Ted?

19 MR. BABBITT: Let him finish his answer,

09:29 20 please.

21 MR. DEIXLER: I thought he had.

22 MR. BABBITT: But he said he didn't, so...

23 THE WITNESS: I -- I didn't. I didn't.

24 A. And -- and that then morphed in to doing the

09:29 25 same thing for the Commodore's Messenger Org and its

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09:29 1 watchdog committee which ostensibly took over management
2 functions or which attempted to take over management
3 functions for L. Ron Hubbard and to distance him from
4 the unlawful activities of the guardian's office and his
09:29 5 wife.

6 Q. (BY MR. DEIXLER) Have you completed your
7 answer?

8 A. Yes.

9 Q. Okay. Did you ever -- you never saw -- You
09:29 10 never spoke to Mr. Hubbard; is that correct?

11 A. That is correct.

12 Q. You never spoke to him in person, on the phone
13 or in any other fashion; is that true?

14 A. That's correct.

09:29 15 Q. Did you ever receive a writing from Mr. Hubbard
16 directed to you, sir?

17 A. Yes.

18 Q. Okay. On how many occasions?

19 A. I think twice.

09:29 20 Q. Okay. What was the first time that Mr. Hubbard
21 wrote something directed to you?

22 A. It was in 1978 -- late in nine -- I think
23 December or November, maybe even October, and he was
24 instructing me on -- to check out a particular type of
09:30 25 paint to be used on the initial wave of renovations on

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09:30 1 the -- what has now become the international
2 headquarters of Scientology in Hemet, California.

3 Q. Okay. Any other topic covered by the
4 communication in writing from Mr. Hubbard to you other
09:30 5 than the type of paint?

6 A. I think he wrote to me, but I can't be sure.

7 But I think he wrote to me when I was at Author
8 Services, when I worked directly for him in the early
9 '80s, welcoming -- welcoming me to post for -- at Author
09:30 10 Services.

11 Q. Okay. So 1978 you had a communication with him
12 in writing that you've described, and in 1980 you had a
13 communication with him you believe welcoming you to your
14 post at Author Services; is that right?

09:31 15 A. Correct.

16 Q. Other than those two written communications,
17 have you ever communicated with Mr. Hubbard in writing
18 or orally?

19 A. No. Oh, I have not communicate -- he hasn't
09:31 20 communicated to me. I participated in many
21 communications that went to him.

22 Q. You -- you transmitted communications to him?

23 A. I participated in many communications that were
24 transmitted to him.

09:31 25 Q. And how did you participate, sir?

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09:31 1 A. Provided information. Wrote parts of them.

2 Q. Okay. You were going through your tenure at
3 the Church of Scientology. You were up to about 1978.

4 A. Actually I was up to '81, but...

09:31 5 Q. From 1978 to '81, were you with the external
6 communications of LRH?

7 A. Yes.

8 Q. Okay. And what happened in 1981?

9 A. In 1981, I got put on this special project,
09:32 10 which was a project that was hop -- operated by David
11 Miscavige and consisted of about six people, I think;
12 and the purpose of it was, was to create an "All clear"
13 for L. Ron Hubbard so that he could come to the
14 international headquarters base in Hemet without fear of
09:32 15 being served with process, or being discovered by a
16 reporter, or being assassinated, or being under any type
17 of threat.

18 Q. And what organization were you working for in
19 1981 when you were put on this special project?

09:32 20 A. I think it was Church of Scientology of
21 California.

22 Q. And how long did you serve in whatever capacity
23 that was for the Church of Scientology of California?

24 A. Well, it morphed. I -- Again, I was on that.

09:33 25 It turned in to -- I was on that until January, I
think,

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09:33 1 of '82, at which point it was referred to as special
2 unit. Because Author Services was formed to set up a
3 buffer between Hubbard and the Church and the outside
4 world; and so David Miscavige and several other people
09:33 5 involved in his finances started a separate office and
6 we -- and myself and some others that were part of
7 special project stayed doing the same function, but
8 calling ourselves special unit; and that went on from
9 January -- approximately January '82 until May of '84.
09:33 10 Q. Okay. And so from January '82 till May of '84
11 you worked on what you've described as the special
12 project pertaining to the "All clear" for Mr. Hubbard;
13 is that correct?

14 A. Yeah. But we called it special unit from
09:34 15 January forward. And -- and then we also -- it was
16 morphing too, so it was sort of -- I mean, I -- I kind
17 of -- we were recreating the -- the office of spec- --
18 we created the office of special affairs and it had a
19 couple of different versions before we settled on that
09:34 20 name in that period and so -- I don't know. I think
21 sometimes I represented myself as the head of the legal
22 department of the Church of Scientology, either of
23 California or International, because we created a new
24 corporation to try to shed the liabilities of the Mother
09:34 25 Church.

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09:34 1 Q. I see. You were the head of the legal
2 department. Are you a lawyer, sir?

3 A. No.

4 Q. Okay. Do you have any training, go to law
09:34 5 school?

6 A. Huh-uh.

7 Q. No?

8 Graduated from college?

9 A. No.

09:34 10 Q. When did you become the head of the legal
11 department?

12 A. Well, I've just told you, it morphed over time.

13 For all intents and purposes, really, January '82.

14 Q. So January --

09:34 15 A. I'm -- Yeah. Pardon me?

16 Q. January 1982 you became the head of the legal
17 department of one organization associated with the
18 Church of Scientology?

19 A. Not really. I became the top person concerning

09:35 20 legal, and litigation, and intelligence, and PR for all
21 of Scientology as of approximately January of 1982.

22 Q. I see. Tell me what your responsibilities were
23 in connection with the legal litigation duties that you
24 had as the head of legal -- of legal affairs.

09:35 25 A. Well, it was the -- primarily it was to get

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09:35 1 L. Ron Hubbard the all clear, and it was to dispense
2 with -- see to the end of two outstanding Grand Juries
3 that were looking in to his connection to criminal
4 activity in -- one in Tampa and one in New York -- and
09:35 5 to get rid of about three dozen lawsuits that either
6 named him or were part of this group of suits that did
7 name him. That was duty No. 1. That was always the
8 top, top priority.

9 Duty No. 2 was to create this new

09:36 10 organization to try to shed the legacy of the
guardian's

11 office, which had been the previous legal department,
12 whose leaders had gone to jail, including Ron Hubbard's
13 wife, Mary Sue Hubbard, for acts they had committed in
14 harassing opponents. That was the second priority.

09:36 15 And then three was to ferret out people

16 who were in Scientology that had been guard --

17 guardian's office members who might, by the fact of
18 remaining on staff within OSA and going with that
19 transition, might create liability; either legal

09:37 20 liability or PR liability in the future. Scientology
21 was ferreting out and Miscavige called it disbanding the
22 guardian's office. And those were the three major
23 objectives of that job.

24 Q. Okay. And that was -- consumed your time fully

09:37 25 during the time period from when you assumed the

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09:37 1 position until when?

2 A. Until May of 1984.

3 Q. Okay. And what happened in May of 1984?

4 A. I got assigned to be the legal executive of

09:37 5 Author Services Incorporated, which was L. Ron Hubbard's
6 personal organization.

7 Q. And did Author Services maintain and exploit

8 Mr. Hubbard's trademarks in his fiction work?

9 A. I don't know about his trademarks. I think he

09:38 10 assigned those to RTC to exploit through -- you know,

11 for the Church of Scientology to exploit monitored by

12 RTC. Although we -- anything involving L. Ron Hubbard

13 we -- again, these things morph, so -- so, you know --

14 Yeah. And -- and by -- and -- and it's difficult to pin

09:38 15 it down and -- and it's by -- it's that way by design.

16 It's -- you keep everybody confused.

17 Q. You were trying to confuse people during the

18 time?

19 A. Not me. L. Ron Hubbard was.

09:38 20 Q. I see.

21 A. And David --

22 Q. Mr. Hubbard --

23 A. And David Miscavige as his direct agent, and I

24 was working for -- for David Miscavige and L. Ron

09:38 25 Hubbard.

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09:38 1 Q. Mr. Miscavige was your superior?

2 A. You know, effectively, between January 1982 and
3 when I left, he pretty much was my superior.

4 Q. Pretty much. What do you mean by "pretty
09:39 5 much"?

6 A. Well, I mean, again, because -- because there's
7 always this -- this slight of hand going on with the way
8 the organization -- it seems to have this very
9 established permanency, you know, to its structure and
09:39 10 everything, but it doesn't operate that way.

11 I had nominal -- when I -- from
12 January 1982 until I went to Author Services in '84, I
13 had nominal superiors, but David Miscavige controlled
14 every action on my post. I always --

09:39 15 Q. From 1982 --

16 A. I always answered directly to him. In 1984,
17 I -- when I went to Author Services, I had a superior
18 (Lyman Spurlock) until '87, that's -- that period. I
19 was there from May '84 until March of '87. But Lyman
09:40 20 Spurlock never directed me or -- or was responsible for
21 my action. David Miscavige directly dealt with me.

22 Q. Sure. So from '82 to '84 who were your nominal
23 superiors?

24 A. Oh, God. Larry Brennan was for a while. Becky
09:40 25 Hay was for a while. H-A-Y. Steve Marlowe was for a

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09:40 1 while -- M-A-R-L-O-W-E, I think. Marlowe -- until '84.
2 And then when I -- in '84, Lyman Spurlock. And it --
3 and Norman Starkey was for a while too. I mean, it's
4 this -- it's this -- you know, there was four different
09:40 5 nominal superiors.

6 Q. Okay.

7 A. Actually probably more, but those are the
8 principal ones.

9 Q. I see. And when you say "nominal" what do you
09:41 10 mean by that?

11 A. I -- Just like I said, you -- you have this
12 organizational structure. David Miscavige is at the top
13 as the Chairman of the Board of Author Services. Lyman
14 Spurlock is the Deputy Executive Director for client
09:41 15 affairs. The legal department's under him. I'm the
16 head of the legal department, so Lyman is my nominal
17 senior. And like I said, in a three-year period, Lyman
18 was in effect junior to me because litigation was hot
19 and a top, top priority. As I told you, all clear -- so
09:41 20 David Miscavige dealt directly with me.

21 Q. Uh-huh. Did you think there was something
22 unethical, improper or dishonest about the structure of
23 the organization in which you were working during the
24 time that you were a member of the Church?

09:41 25 A. It's a difficult question because you justify

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09:41 1 everything so much, you know, at the time. You know,
2 otherwise you wouldn't do it. But, yeah, I mean, yeah,
3 absolutely, it was intended to -- to, but, you know, at
4 the time I -- it was -- you -- it was just sort of
09:42 5 intuitive. But I know it now after all this time has
6 passed and I've done all of my study and I know all of
7 the facts that I know now that, yeah, I think it was
8 unethical and --

9 Q. Did you think you --

09:42 10 A. -- and immoral.

11 Q. Did you think you were acting unethically?

12 A. At that time, no, because I was under the
13 ethics system that -- and this is the Scientology ethics
14 system in a -- in a nutshell. If it forwards L. Ron
09:42 15 Hubbard in Scientology, it's good. If it doesn't, it's
16 bad. And so I had -- I was part of that ethics system
17 and, therefore, it seemed ethical at that time.

18 Q. Okay. Did you think you had to be completely
19 honest in order to do well in life and to set an example
09:42 20 for others?

21 A. Me?

22 Q. Yeah.

23 A. I mean, yeah, on a certain level.

24 Q. Was that one of the precepts by which you lived
09:42 25 your life during the time you were in the Church of

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09:43 1 Scientology?

2 A. No. I don't believe a precept. I've just --

3 that kind of sums up my -- my feelings, though.

4 Q. Okay. So you were living an honest, ethical

09:43 5 life during the time you were with the Church of

6 Scientology; is that fair?

7 A. No.

8 Q. You weren't living a honest and ethical life at

9 the time you were in the Church of Scientology, correct?

09:43 10 A. No.

11 Q. Well, which is it?

12 A. Well, it's not one of the two.

13 Q. Explain to me what your view is --

14 A. You're not listening to me.

09:43 15 Q. -- of your honesty.

16 A. You're -- I don't think you're really listening

17 to me. Because I just told you that at the time -- and

18 I'll repeat it again. At the time it seemed ethical

19 because I was abiding by the Scientology ethics system.

09:43 20 In the broader scheme of things, knowing all of the

21 facts I know today, it was not really ethical.

22 Q. In May of 1984, did you get a new position at

23 the Church?

24 A. Yes.

09:43 25 Q. What position was that?

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09:43 1 A. Ask and answered. But legal executive of
2 Author Services.

3 Q. Okay. And how long did you serve in that
4 position?

09:44 5 A. Until March of 1987 which I already told you.

6 Q. And then in March of 1987, what was your next
7 position?

8 A. Inspector general -- well, missionary
9 actually; but, I mean, I became the inspector general

09:44 10 for ethics RTC.

11 Q. And who -- who appointed you to that position
12 of inspector general in March of '87?

13 A. David Miscavige.

14 Q. And then -- and did you appreciate that
09:44 15 responsibility?

16 A. No. And matter of fact, I objected to taking
17 the post. I didn't want to take it.

18 Q. And how did you object? Was that in writing or
19 orally?

09:44 20 A. Orally.

21 Q. And to whom did you object?

22 A. Greg Wilhere.

23 Q. Yeah. Anybody else?

24 A. May have to David Miscavige.

09:44 25 Q. Okay. And notwithstanding your objections you

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09:44 1 assumed those responsibilities?

2 A. Correct.

3 Q. And what were those responsibilities, sir,

4 starting in March of '87?

09:44 5 A. The first one was -- Jesus -- the probate --

6 handling the probate of L. Ron Hubbard's estate;

7 handling the IRS and getting an exemption; manning up

8 the office of special affairs network which handles all

9 of their legal intelligence and public relations;

09:45 10 manning up ethics officers; putting in a justice system

11 because it would always -- it had always been sort of a

12 sham kind of system. They were -- didn't really

13 effectively operate.

14 In between '87 and approximately '92,

09:45 15 while I was on that post, there was some semblance of -

-

16 of operation, a -- a justice system within the Church.

17 Surveilling Pat Broeker, keeping an eye on him; that was

18 part of the probate and the IRS concern. Doing -- I did

19 do specific direct intelligence things for David

09:46 20 Miscavige during that era that he thought were a

21 particular threat to himself and the Church.

22 Q. Okay. From '87 -- starting in 1987, was it

23 your view that there was no justice system in the Church

24 of Scientology?

09:46 25 A. Starting '87?

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09:46 1 Q. Yeah.

2 A. It was a sham, I said.

3 Q. And -- and -- and when did you first believe
4 that the justice system was a sham?

09:46 5 A. I didn't really believe it. It was just by
6 observation it was. And that was one of the reasons for
7 the formation of my post.

8 Q. So in 1987, as you understood it, your post was
9 formulated for the purpose of putting in to place a
09:46 10 justice system, correct?

11 A. Correct.

12 Q. Okay.

13 A. That was one of the -- one of the purposes.

14 Q. And -- and -- and who put that responsibility
09:46 15 upon you? Was that Mr. Miscavige as well?

16 A. L. Ron Hubbard.

17 Q. Mr. Hubbard asked you to do that?

18 A. It was part of his -- he had a -- probably a
19 file cabinet drawer full of, what we called, advices or
09:47 20 directions for RTC; and that was one of them.

21 Q. Okay. Was it directed to you personally?

22 A. It was directed to RTC.

23 Q. Okay. Not to you personally, correct?

24 A. No.

09:47 25 Q. Okay. So --

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09:47 1 A. And what we did was, is, when he organized the
2 place we -- we broke it in to administration, ethics and
3 technology, which were the three sort of bodies of --
4 you could -- you could assign all of the different
09:47 5 things that Hubbard said RTC should do to those three
6 things and so that fit under the ethics one.

7 So, no, David Miscavige didn't
8 particularly assign me to it. L. Ron Hubbard did.
9 Q. Okay.

09:47 10 A. That was the whole -- the whole basis of the
11 organization.

12 Q. So -- so L. Ron -- let me -- I'll try to follow
13 this with a clarity. L. Ron Hubbard who never spoke
14 with you and only wrote to you on two occasions,
09:48 15 nevertheless, gave you an assignment? Is that --
16 A. That's --

17 Q. Am I correctly --

18 A. You're just --

19 Q. -- understanding?

09:48 20 A. -- playing word games right now. I said what I
21 said. You're just playing word games.

22 Q. How did Mr. Hubbard, who as I understand from
23 your testimony was deceased, make an assignment to you?
24 THE WITNESS: Ted, do I have to tell him

09:48 25 again? I -- I already -- I already explained this.

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09:48 1 MR. BABBITT: Yeah. I -- I -- You guys
2 are talking too fast. I -- I interposed an objection
3 just a moment ago about the repetitive nature, but I
4 can't instruct you with -- what you can do.

09:48 5 THE WITNESS: Okay.

6 MR. BABBITT: All right.

7 Q. (BY MR. DEIXLER) Answer the question, please.

8 Mr. Rathbun, would you answer the question, sir?

9 MR. DEIXLER: Madam Reporter, would you

09:48 10 read the question to the witness?

11 THE WITNESS: You don't need to. I know
12 what the -- I know what the -- the answer is. I'm just
13 contemplating what to do about this harassment.

14 A. I'll -- I'll -- I'll humor you for a little

09:49 15 longer.

16 L. Ron Hubbard wrote a file cabinet drawer
17 approximately full of written communications as to what
18 RTC was to do. They broke down in to three particular
19 categories which have significance in Scientology:
09:49 20 Ethics, administration and technology. The ones that
21 had to do with the field of ethics got put under the
22 inspector general for ethics.

23 Q. (BY MR. DEIXLER) Who put them under the
24 inspector general for ethics?

09:49 25 A. L. Ron Hubbard.

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09:49 1 Q. Okay. From '87 to '92, you served in this
2 position of inspector general?

3 A. Ninety-three. Inspector general for ethics.

4 There was four inspector generals. David Miscavige was
09:50 5 the chairman of the board; and that title was chosen to
6 give him sort of an, quote/unquote, arm's length from
7 the day-to-day activity. Although he always
8 micromanaged all of the posts I'm about to tell you
9 about.

09:50 10 Then there was an inspector general who
11 was supposed to be the head of RTC, which was Greg
12 Wilhere; and then there was an inspector general for
13 ethics, which is me; an inspector general for
14 administration, which was Marc Yager; and an inspector
09:50 15 general for technology, which was Ray Mithoff, who
16 nominally answered to Greg Wilhere, as the inspector
17 general, who answered to David Miscavige who was the
18 chairman of the board. But it didn't really operate
19 that way; that's how it was organized.

09:50 20 Q. In -- And what happened in 1993 that brought to
21 an end your role as the inspector general of ethics?

22 A. Well, it actually began -- these things morph
23 and it actually began in 1990 when David Miscavige took
24 Greg Wilhere off post because he embarrassed him with
09:51 25 Tom Cruise, which was the greatest offense that you

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09:51 1 could possibly commit in David Miscavige's eyes. He
2 used -- he put his head on a pike, which is a
3 Scientology vernacular for blaming something on somebody
4 publicly and making a big show of it, and he put Greg
09:51 5 Wilhere's head on a pike and so that whole generation of
6 that system really began in 1990. And by --
7 And I think he took Yager off in '91 --
8 '90-'91-ish and so by the time '91-'92 rolled around,
9 the -- it was already -- the -- the -- this thing had
09:51 10 sort of been torpedoed by David Miscavige, the -- the
11 whole structure, and so at -- by that time he was in to
12 this constant, We got to reorganize. You know, we had
13 one organization for three years, and he was in to
14 constant re-org, and so it was difficult to say who was
09:52 15 on what post.

16 Q. Did you leave the Church in 1993?

17 A. Yes.

18 Q. Yeah. When was that?

19 A. 1993.

09:52 20 Q. Okay. When in 1993, sir?

21 A. In --

22 MR. BABBITT: Asked and answered.

23 Objection.

24 A. -- October or November.

09:52 25 Q. (BY MR. DEIXLER) And how long were you gone?

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09:52 1 A. Nine days.

2 Q. And your reason for leaving?

3 MR. DEIXLER: I have to go to the letter.

4 A. My reason for leaving was the recognition that

09:52 5 David Miscavige was a complete narcissistic, psychotic
6 personality that had absolute control; and that

7 Scientology really for him was all about him really and

8 that there was really no -- nothing within my power I

9 could do, based on the way the whole system was set up,

09:53 10 to really change that.

11 Q. (BY MR. DEIXLER) I see. And so you left for

12 nine days in October or November of '93, but you came

13 back?

14 A. Yeah. As a matter of fact, I -- I -- my wife

09:53 15 and Greg Wilhere, the inspector general I referred to,

16 were sent to my father's bed. He was dying of cancer in

17 Southern California, and they went directly there and

18 just basically held a vigil at his bed so that -- to win

19 him over, to get him to get me to talk to her and him --

09:53 20 to Greg and Ann, who is my former wife -- and they kept

21 begging me to come back and -- every time I called in --

22 one of the reasons I left. One of the reasons left.

23 Two was, because I -- I did want to spend

24 some time with my father before he passed away because

09:53 25 he was -- he was chronic. And -- and so Miscavige

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09:53 1 effectively handled that by just setting up a vigil at
2 his bed, but they -- the --

3 I was going back east to see an old friend

4 and to get some distance from them and to get my head

09:54 5 clear, and I was riding my motorcycle, and ironically
6 what -- it wasn't but four or five blocks from here. I

7 was at the -- I stayed at the Days Inn just down the

8 street on Houston Street here in San Antonio, and I

9 called in home and Greg Wilhere picked up the phone and

09:54 10 spoke to me for probably two hours begging me, begging
11 me, begging me to talk to David Miscavige, who he said

12 was distraught, crying, beside himself in shame for

13 the -- the way he had acted, and begged me to speak to

14 him because he was really worried about David. Really

09:54 15 out of sympathy and compassion, I took the phone call.

16 Q. Okay. So let me just understand this. You had

17 formed the opinion as of the time you picked up the

18 phone that Mr. Miscavige was psychotic, correct?

19 A. Pardon me?

09:55 20 Q. As of the time you picked up the phone to have

21 a phone call with Mr. Miscavige that you're about to

22 relate you had formed the judgment that he was

23 psychotic, right?

24 A. I left because he was acting in a psychotic,

09:55 25 narcissistic fashion.

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09:55 1 Q. Okay. And that was your view of Mr. Miscavige
2 at the time, correct?

3 A. Six days earlier.

4 Q. Yeah. And --

09:55 5 A. And I had driven -- rode on my motorcycle in
6 sub-50-degree weather all the way across the country
7 from Los Angeles to here over six days. Yeah. Six days
8 earlier. That was one of the reasons why I was leaving.

9 Q. Okay. And you still hold that view of him;

09:55 10 he's psychotic, narcissistic --

11 A. No.

12 Q. -- Hitlerian --

13 A. No, I don't.

14 Q. You don't?

09:55 15 A. Still? No.

16 Q. You've changed your view of him?

17 A. It changes and evolves all the time.

18 Q. I see.

19 A. Yeah.

09:56 20 Q. What's your current view of Mr. Miscavige
21 then?

22 A. Well -- well, let's go back to '93.

23 Q. Well, I was focused on the current.

24 MR. DEIXLER: So I'll move to --

09:56 25 A. No, you didn't.

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09:56 1 MR. DEIXLER: -- strike your answer --

2 A. You went there.

3 MR. DEIXLER: -- as nonresponsive.

4 A. No, you didn't. I'll move to --

09:56 5 Q. (BY MR. DEIXLER) What is your --

6 A. -- strike your question. Because you start --

7 you --

8 Q. What is your current --

9 A. You're sending me way back to '93, and then

09:56 10 you're put -- trying to put words in my mouth and I

11 don't adopt them, and now you're trying to play word

12 games -- but you said he's this and you said that. You

13 want to hear the story then sit back and hear the story.

14 Q. Mr. Rathbun, actually what we're going to do is

09:56 15 do it in a question and answer form. This is a

16 proceeding that's in federal court and we'll play by

17 those rules.

18 A. What -- what has this got to do with the refund

19 policy of the Church which this discovery is supposed to

09:56 20 be about?

21 Q. Would you tell me, sir, today, whether it is

22 fair to say that you -- you have the view that

23 Mr. Miscavige is psychotic and narcissistic?

24 A. I'm not done with my previous answer.

09:56 25 Q. Please answer my question, sir. That was the

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09:56 1 question stated.

2 A. I'm not done with the previous answer.

3 Q. Are you refusing to answer this question?

4 A. I'm not done with the previous answer.

09:56 5 MR. BABBITT: -- finish his answer. Would

6 you let him finish his answer? Then you can ask him the

7 question. That's the way it's supposed to be.

8 Q. (BY MR. DEIXLER) Please answer my question,

9 sir.

09:57 10 A. See, I think there's a different purpose for

11 all of this.

12 Well, this will answer your question, I

13 suppose. But you'd better get comfortable because I'm

14 going to have to bring it from '93 up to the present;

09:57 15 because you're trying to whipsaw me and -- and say,

16 because you thought something in '93 that is

17 inconsistent because you didn't think it after six days

18 on a motorcycle.

19 After six days on a motorcycle and -- and

09:57 20 having been under the influence of Scientology -- which

21 that entire time, you're -- you're trained to always

22 look to yourself. What's wrong with you. And so that's

23 sort of a constant, nonstop meditation that's going on

24 during that entire period. So when I get to San

09:57 25 Antonio, you know, I'm leaving my entire life behind
and

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09:57 1 not in a good shape mentally or -- or emotionally, and
2 now I'm being told that this guy who acts like Adolph
3 Hitler, Ayatollah Khomeini and -- who was the third
4 guy? -- Joseph Stalin is -- had some "come to Jesus"
09:58 5 moment, which is astounding.

6 Never in the history of all of
7 Scientology, all of the people that you want to
8 interview or depose who are defectors during any period
9 of time, ever witnessed anything like this. Nobody has
09:58 10 except for me. He was begging me, begging me to forgive
11 him, begging me, begging me to meet with him. He said,
12 I will fly to San Antonio right now. It sort of
13 flabbergasted me, Bert.

14 Q. Have you completed your answer?

09:58 15 A. Yes.

16 Q. Okay. So my question was, your current view of
17 Mr. Miscavige is that he is a narcissistic psychotic; is
18 that true? Yes or a no?

19 A. He acts in a narcissistic and psychotic way

09:58 20 for --

21 Q. Let me --

22 A. -- for sure. I mean, spending fifty --
23 \$50 million to try to destroy me and my family, I think
24 that's pretty psychotic.

09:58 25 (Exhibit No. 1 marked.)

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09:58 1 Q. (BY MR. DEIXLER) Let me mark as Exhibit
2 No'd. 1 a multipage, ten-page, handwritten document
3 and ask you to take a look at it. And first, I'm
4 going to ask you whether that is your handwriting,
09:59 5 sir?

6 A. Yes.

7 Q. And is this a -- a letter that you wrote on or
8 about November 30th --

9 A. I have to read --

09:59 10 Q. -- 1993?

11 A. I'd have to read it.

12 Q. Why don't you take a moment and review that
13 document and I will ask you a few questions about it.

14 MR. BABBITT: Yeah. I don't have that

09:59 15 document. You haven't provided it for me before the
16 deposition, so let's just take a break and let's -- or
17 fax it to me and then we'll --

18 MR. DEIXLER: At -- Actually, Mr. Babbitt,
19 I was thinking, because it's handwritten and difficult
09:59 20 to read, that I'm going to have Mr. Rathbun read the
21 document into the record so we'll all understand his
22 handwriting.

23 THE WITNESS: I'm not going to do that.

24 MR. DEIXLER: That's what I intend to have

09:59 25 Mr. Rathbun do.

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09:59 1 THE WITNESS: Then I intend not to do it,
2 Ted. It's just completely frolic and detour intended to
3 harass. Has nothing to do with any issue in this case.

4 Q. (BY MR. DEIXLER) You'll have to read the
10:00 5 letter or I guess we can call the Judge.

6 A. I guess so. Let's do it.

7 Q. All right.

8 MR. BABBITT: Well, I -- I -- I'd like to
9 see a copy of the letter. Would that be possible,

10:00 10 Mr. Reporter -- Ms. Reporter.

11 Q. (BY MR. DEIXLER) So let me -- let me call
12 your attention since you're --

13 MR. BABBITT: I was talking. I wasn't
14 finished --

10:00 15 MR. DEIXLER: Oh, I'm sorry.

16 MR. BABBITT: -- with my question.

17 MR. DEIXLER: You know, I'm not quite sure
18 how you can see a copy of the letter. I don't know
19 whether documents have been produced.

10:00 20 MR. BABBITT: We have these magic machines
21 that are called scanners. They can send an e-mail or we
22 can fax them. It's a modern, you know, convenience that
23 we have and I think that can be done.

24 MR. DEIXLER: Yeah. And -- and at an
10:00 25 appropriate time we'll -- I guess if it hasn't been

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10:00 1 produced -- and I have no opinion one way or the
2 other -- I guess it can produced.

3 Q. (BY MR. DEIXLER) Mr. Rathbun, in the --

4 MR. BABBITT: Fax it to me during a break.

10:00 5 That's what we're going to do.

6 MR. DEIXLER: Yeah. We'll -- we'll send

7 it to you, I guess, if it hasn't been produced, we

8 can -- I'll inquire here as to whether it can be done.

9 Q. (BY MR. DEIXLER) Mr. Rathbun, in this letter

10:01 10 you wrote, am I correct that --

11 A. I'm trying to read it. You told me to --

12 Q. -- that --

13 A. -- read it.

14 MR. BABBITT: Mr. Rathbun, Ms. Reporter,

10:01 15 I'm suspending this deposition under the rules long

16 enough to obtain a copy of that. Could we please take a

17 break, send me a copy of it, and then we'll start again.

18 MR. DEIXLER: Well, I don't know that

19 you're empowered to suspend the deposition which is to

10:01 20 proceed as though we were --

21 MR. BABBITT: I think I am. I'm entitled

22 to suspend the deposition and ask for a Court hearing.

23 MR. DEIXLER: Okay. Why don't you -- why

24 don't we do that.

10:01 25 MR. BABBITT: The easiest thing to do

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10:01 1 would be to just fax me a copy or -- or e-mail a copy of
2 that document.

3 MR. DEIXLER: Yeah.

4 MR. BABBITT: It'll take five minutes to

10:01 5 do that.

6 MR. DEIXLER: Yeah. I -- I -- I'm happy

7 to -- to do that if it hasn't been produced. As I said

8 before, I'm not sure whether it has been produced or

9 not.

10:01 10 MR. BABBITT: Well, we don't have to argue

11 about it.

12 THE WITNESS: It's not been produced. You

13 would never produce something like this.

14 Q. (BY MR. DEIXLER) Mr. Rathbun, are you

10:01 15 familiar with the documents that have been produced in

16 this case?

17 A. I said "would." It's a subjunctive.

18 Scientology would never produce a document like this.

19 MR. DEIXLER: Let's take -- let's a short

10:02 20 break. I will produce this document to you. I intend

21 to inquire about it and if Mr. Rathbun refuses to answer

22 my questions pertaining to it, we will suspend the

23 deposition. His right --

24 THE WITNESS: I'm waiting for you to --

10:02 25 MR. DEIXLER: And we'll call the District

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10:02 1 Judge.

2 THE WITNESS: I'm waiting for you to give
3 a copy of the document to counsel for the other side,
4 who called me as a witness, who said he's suspending the
10:02 5 deposition until he gets it.

6 Q. (BY MR. DEIXLER) And then you'll answer
7 questions about it --

8 A. Perhaps --

9 Q. -- correct?

10:02 10 A. Perhaps.

11 Q. Okay.

12 MR. DEIXLER: All right. We'll -- we'll
13 take a couple of minutes to try to get this document to
14 you, Mr. Babbitt. And what is the number that we should
10:02 15 use to try to send it to you?

16 MR. BABBITT: (561)684 -- well, you can --
17 you can probably scan it and send it to me by e-mail.

18 MR. DEIXLER: Please don't take the
19 document. It's a court exhibit. Put the document down,
10:02 20 Mr. -- Mr. Rathbun.

21 THE WITNESS: You want me to read the
22 document?

23 MR. DEIXLER: I want you to sit here with
24 the court document. Don't take a document out of the
10:02 25 room. This is a -- this is a court exhibit.

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10:02 1 THE WITNESS: You said you produced it.

2 MR. DEIXLER: Put the document down, sir.

3 It is an exhibit in a district court proceeding. Do not

4 leave the room. If you want read it, read it here.

10:03 5 THE WITNESS: Okay. Are we -- are we

6 taking a break?

7 MR. DEIXLER: We're going to take a break.

8 So are we -- you want us to try to scan it and send it

9 to you as a PDF; is that your preference? Or fax it?

10:03 10 MR. BABBITT: Yeah. That -- that's

11 probably the easiest thing, but I can give you a fax

12 number.

13 MR. DEIXLER: Why don't -- why don't

14 you -- I'll see what -- what is possible to do here.

10:03 15 Why don't you give me the number and your e-mail

16 address.

17 MR. BABBITT: Okay. It's (561) --

18 MR. DEIXLER: Yeah.

19 MR. BABBITT: -- 684-6308.

10:03 20 MR. DEIXLER: I'm sorry. 6308?

21 MR. BABBITT: Correct.

22 MR. DEIXLER: Okay.

23 MR. BABBITT: (561)684-6308. My e-mail

24 address is Ted, T-E-D, Babbitt, B-A-B-B-I-T-T, at

10:03 25 Babbitt, dash, Johnson, dot, com.

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10:03 1 MR. DEIXLER: Okay. Let's see which of
2 those two ways she can get it to you. And we'll take
3 five minutes off the record.
4 The record should reflect that Mr. Rathbun
10:03 5 has completely walked out of the room after throwing
6 Exhibit 1 on the table. Off the record for a couple of
7 minutes.

8 THE VIDEOGRAPHER: The time is 10:04.

9 MR. BABBITT: After you ordered him --

10:04 10 THE VIDEOGRAPHER: We're off the record.

11 (Short break taken.)

12 THE VIDEOGRAPHER: The time is 10:16, we
13 are back on the record.

14 Q. (BY MR. DEIXLER) We are -- Mr. Rathbun, I'm
10:16 15 going to pass this point until the document is
16 received. It'd been -- it's been bounced back
17 apparently by fax, so we'll --

18 A. Okay.

19 Q. -- move on.

10:16 20 So we are up to the period of November of
21 1993. And as of 19 -- November of 1993 what -- in what
22 capacity were you working for the Church?

23 A. I was on training, full-time training.

24 Q. And where was that training located?

10:16 25 A. On the ship.

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10:16 1 Q. On the Free Winds?

2 A. Yes.

3 Q. And how long were you on full-time training?

4 A. From November '93 till summer of '95.

10:16 5 Q. And in connection with that full-time training

6 what responsibilities did you have for any of the legal

7 affairs of the Church or any entity affiliated with the

8 Church?

9 A. Well, I had to do a number of security jobs for

10:17 10 Miscavige on the ship and I participated in the matter

11 of having a -- a security risk sign documents,

12 self-incriminating documents.

13 Q. Okay. And where was the ship located at the

14 time you were performing this work?

10:17 15 A. All over the Caribbean.

16 Q. So you were on a ship in the Caribbean from,

17 roughly, November of '93 till the summer of 1995?

18 A. Yeah.

19 THE WITNESS: Ted, are you there?

10:17 20 MR. BABBITT: I'm here.

21 THE WITNESS: Okay.

22 Q. (BY MR. DEIXLER) Through --

23 A. Right.

24 Q. Through the summer of 1995?

10:17 25 MR. BABBITT: (Inaudible) fax number if

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10:17 1 that will help any.

2 A. Correct.

3 Q. (BY MR. DEIXLER) And you were doing --

4 A. With one exception. I also went to Washington,
10:18 5 D.C. to potentially testify in another case.

6 Q. Okay. Did you testify?

7 A. No.

8 Q. Okay. And so after August of 1995 what was
9 your next responsibility in connection with the Church
10:18 10 matters?

11 A. I was working with the RTC rep office in -- at
12 the Flag Land Base in Clearwater, Florida.

13 Q. And what was your position?

14 A. He called me trainee, but -- but I had a lot of
10:18 15 responsibilities. And again, it evolved just over the
16 three- or four-month period that I was there.

17 Q. Okay. So this was in the summer of the 1995
18 through the fall of '95?

19 A. Through -- through December 1995.

10:18 20 Q. Okay. And so you were a trainee at -- at Flag.

21 What happened in 1996? What position did you then
22 assume?

23 A. Well, by the end of '95, I was not a trainee
24 anymore. I was handling the cover up of the Lisa

10:19 25 McPherson case which was a legal intelligence PR job

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10:19 1 directly from Miscavige.

2 Q. Okay. The --

3 A. And I was doing a number of -- a number of
4 security things for him. I was putting people -- I was
10:19 5 interrogating people on the lie detector that he
6 designated particularly.

7 Q. Uh-huh. He --

8 A. And I was -- and I was retraining all of the
9 top, highest technical people in Scientology.

10:19 10 Q. Okay. So --

11 A. So it's -- it's a -- this is all before the end
12 of '95. It's during that, quote/unquote, trainee
13 period. It evolved into something much bigger.

14 Q. You said the cover up of McPherson. Was --

10:19 15 A. Yes.

16 Q. Was the McPherson case the case in which you
17 have acknowledged that you ordered the destruction of
18 documents?

19 A. At the behest of David Miscavige, yeah.

10:20 20 Q. So -- so the answer is, you ordered the
21 destruction of documents, correct?

22 A. I forwarded the order to destroy any evidence
23 that might link David Miscavige to the case.

24 Q. And to whom did you give the order to destroy
10:20 25 evidence?

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10:20 1 A. Well, actually I -- I sort of assented to
2 general counsel's advice to get done, and I said, Go
3 ahead. Lose them. But Elliot Abelson had pretty much
4 made the legal determination that the evidence should be
10:20 5 destroyed.

6 Q. Mr. Abelson told you to destroy evidence?

7 A. Mr. Abelson said this material should be gotten
8 rid of.

9 Q. Well, tell me where were you --

10:20 10 A. In the --

11 Q. -- at the time?

12 A. In the legal office at office of special
13 affairs where you've been many times, I'm sure, in the
14 general counsel office.

10:20 15 Q. With Mr. Abelson?

16 A. With Mr. Abelson.

17 Q. Just the two of you or were other people
18 present?

19 A. And Mr. Farney was in and out.

10:21 20 Q. And when did this conversation occur?

21 A. Sometime in early '06.

22 Q. Okay. So in early 2006, you were told by
23 Mr. Abelson to destroy evidence?

24 A. I didn't say that. You're mischaracterizing
10:21 25 what I said.

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10:21 1 Q. How did I get that wrong?

2 A. He said, This should be gotten rid of.

3 Q. When you say "this" to what are you referring?

4 A. A series of documents.

10:21 5 Q. Okay.

6 A. The last --

7 Q. What were the --

8 A. Which were reports on the last day of Lisa

9 McPherson's life.

10:21 10 Q. Okay. And so did you have those documents with

11 you at the time?

12 A. They were in the room.

13 Q. Okay. And did you have physical possession of

14 them?

10:21 15 A. I don't know. I don't remember.

16 Q. Okay.

17 A. Lynn Farney was there really who -- to -- to

18 handle the documents.

19 Q. Okay. And who did you instruct to get rid of

10:21 20 the documents or to destroy this evidence?

21 A. I just said to Lynn Farney, Lose them.

22 Q. Okay. Did you tell that to anybody else?

23 A. No.

24 Q. Okay. At the time you were ordering the

10:22 25 destruction of these documents, did you think you were

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10:22 1 acting truthfully?

2 A. Truthfully. I -- I don't understand the
3 question.

4 Q. Did you think you were acting, you know,
10:22 5 truth --

6 A. I was acting ethically pursuant to
7 Scientology's ethics codes.

8 Q. And explain to me what part of the ethics code
9 instructed you that it was appropriate to destroy
10:22 10 evidence in a criminal proceeding.

11 A. It's throughout the code. If you read that
12 book, it's throughout it. That ultimately if it's good
13 for Scientology, it's good. If it's bad for
14 Scientology, it's evil.

10:22 15 Q. Okay.

16 A. Period.

17 Q. So it is correct that your view of the ethics
18 system of Scientology permitted obstruction of justice;
19 is that right?

10:22 20 A. I didn't get the question.

21 Q. You didn't understand it or you --

22 A. I didn't --

23 Q. -- didn't hear it?

24 A. I didn't hear it.

10:22 25 Q. Okay. Why don't we have the court reporter

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10:22 1 read it and see if you hear it -- if you can answer it
2 upon rehearing it.

3 (Requested portion read.)

4 A. Absolutely. Yes.

10:23 5 Q. (BY MR. DEIXLER) Okay. And you yourself
6 engaged in the obstruction of justice, correct?

7 A. As an agent of Scientology, yes.

8 Q. And that obstruction of justice included lying
9 under oath, correct?

10:23 10 A. I don't recall lying under oath. But if I
11 thought about it, I might be able to find an instance of
12 it for Scientology.

13 Q. Did you lie under oath in declarations?

14 A. Probably.

10:23 15 Q. Did you lie under oath in affidavits?

16 A. Probably.

17 Q. Did you lie under oath in depositions?

18 A. I don't recall lying under oath in depo -- in a
19 deposition.

10:23 20 Q. Did you lie under oath in court testimony?

21 A. Not that I recall.

22 Q. And the lies that you did tell under oath, be
23 it in an affidavit or deposition, you did that because
24 you thought it would advance the interests that you were
10:24 25 advocating at the time; is that true?

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10:24 1 A. It would advance Scientology. You see, I'll --
2 I'll say it again. The ethics system is really -- it's
3 very complex and convoluted to somebody who wants to
4 argue for or against it. But the simplicity really is
10:24 5 this: If it's good for Scientology and L. Ron Hubbard,
6 it's good. If it's bad for them, it's evil.

7 Q. Okay. So at the time that you were --

8 A. Period.

9 Q. At the time you were a member of the Church of
10:24 10 Scientology lying under oath was something you did
11 because you believed it was in the best interest of the
12 religion that you were a participant in; is that fair?

13 A. Yeah. But you keep saying lying under oath.

14 I'm not so sure about lying under -- that I lied under
10:24 15 oath. I -- everything -- When you're writing a
16 declaration, you're characterizing the facts in the --
17 in the way that it's going to forward Scientology and
18 destroy your enemy, and so -- and so, you know, I don't
19 know of a specific thing where I said, Hey, you know,
10:25 20 you asked me A and I told you B. So I -- I don't -- I
21 don't -- your -- your sum up is just -- you know, you
22 just keep trying to sum up -- you ask me facts, I give
23 you facts. Then you try to sum up and you
24 mischaracterize the facts.

10:25 25 Q. At the time you ordered the destruction of

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10:25 1 these documents, did you put it in writing?

2 A. No.

3 Q. Have you ever seen a writing that reflects it;

4 your instruction?

10:25 5 A. No.

6 Q. Would you agree that the primary rule in

7 Scientology is, if it isn't written, it isn't true?

8 A. The primary rule?

9 Q. Yes, sir.

10:25 10 A. No.

11 Q. Did you ever tell anybody that?

12 A. Sure.

13 Q. Did you believe it to be true at the time you

14 said it?

10:26 15 A. I don't know. It depends on the context.

16 Q. Well, can you think of a circumstance in which

17 you would have said, The primary rule in Scientology is,

18 if it isn't written, it isn't true, where you didn't

19 think that was in fact the case?

10:26 20 A. Your question is meaningless to me.

21 Scientology is 55 million words by L. Ron

22 Hubbard. One of the reasons why I sort of just

23 completely left it behind -- I tried to resurrect it

24 after I left the Church, and one of the reasons why I

10:26 25 completely left it behind is because I saw the same

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10:26 1 cognitive dissidence in people on the outside who still
2 adhered to it as people on the inside.

3 There's 55 million words, according to the
4 Church, uttered or written by Hubbard on Scientology.

10:26 5 For anything you can find by Hubbard and -- and -- and
6 then, of course, it's all begun with the basic

7 fundamental that you must take it literally and you must
8 do precisely as Ron Hubbard says, even down to how to
9 wash your car. Okay? And so it creates this cognitive

10:27 10 dissidence, because for everything you can tell me that
11 L. Ron Hubbard said to do, I can find you somewhere else
12 where he said to do the opposite. So your questions are
13 just -- these absolutest questions of yours, there's no
14 good absolute answer to them.

10:27 15 Q. Okay.

16 MR. DEIXLER: And I move to strike the
17 answer as nonresponsive.

18 Q. (BY MR. DEIXLER) Sir, let me see, though, if
19 I can follow up. Are you no longer a -- what you

10:27 20 described as an independent Scientologist or the head
21 of an independent Scientology movement?

22 A. Yeah.

23 Q. You -- you don't do that anymore?

24 A. Huh-uh.

10:27 25 Q. When did that stop?

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10:27 1 A. Probably -- Well, you say head of an
2 independent Scientology movement. I -- I was never -- I
3 never considered myself the head of an independent
4 Scientology movement.

10:27 5 Q. Did you ever represent yourself to have that
6 capacity?

7 A. I don't believe so.

8 Q. Uh-huh. Do you regard yourself as an
9 independent Scientologist who's in competition with the
10:28 10 Church of Scientology?

11 A. No.

12 Q. Did you ever think you were in competition with
13 the Church of Scientology?

14 A. No.

10:28 15 Q. Do you know whether Judge Waldrip disagreed
16 with that opinion?

17 A. Huh?

18 Q. Do you know who Judge Waldrip is?

19 A. Yeah.

10:28 20 Q. And do you know whether Judge Waldrip concluded
21 that the services that you had offered were in
22 competition with the Church of Scientology?

23 A. No. He concluded that you alleged that.

24 THE WITNESS: See, the -- Ted, this is

10:28 25 what I was talking about. This is a big fishing

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10:28 1 expedition for the -- my wife's lawsuit that's in front
2 of Judge Waldrip in New Braunfels, Texas.

3 Q. (BY MR. DEIXLER) Mr. Rathbun --

4 THE WITNESS: He's arguing with me about

10:28 5 what the Judge has found in that case. He's trying to
6 take discovery in another case.

7 Q. (BY MR. DEIXLER) Mr. Rathbun, I'm sorry, but

8 you're going to have to respond to my questions.

9 Do you understand that the --

10:28 10 THE WITNESS: Are you there, Ted?

11 Q. (BY MR. DEIXLER) -- Judge in Texas has

12 regarded you as being a competitor of the Church of
13 Scientology? Yes or no?

14 THE WITNESS: Are you there, Ted? Ted,

10:28 15 are you there?

16 MR. BABBITT: Hello.

17 Q. (BY MR. DEIXLER) Could you answer the
18 question?

19 THE WITNESS: Are you -- are you hearing
10:29 20 all of this?

21 MR. BABBITT: Yeah. I'm hearing

22 everything. Can you hear me?

23 THE WITNESS: I just now can. Just want
24 to make sure.

10:29 25 MR. BABBITT: Sorry.

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10:29 1 THE WITNESS: Okay.

2 Q. (BY MR. DEIXLER) So --

3 MR. BABBITT: Yeah.

4 Q. (BY MR. DEIXLER) So this --

10:29 5 MR. BABBITT: Well, let -- let's stop for
6 just a second here.

7 MR. DEIXLER: Yeah.

8 MR. BABBITT: Sir, I -- I have -- we have
9 been going now for close to -- to an hour and a half and
10:29 10 we are so far afield from the issues the Court has
11 directed you to limit your testimony to. We're now
12 going in to a case in Texas which has nothing to do with
13 this case.

14 MR. DEIXLER: It has -- well,
10:29 15 respectfully --

16 MR. BABBITT: And there is a limit to how
17 long, you know, you can take to discredit the witness,
18 and I --

19 Mr. Rathbun, I cannot instruct you what to
10:29 20 do. That's up to you. But it's my opinion that this is
21 completely irrelevant to the issues in this case.

22 MR. DEIXLER: Well, you --

23 THE WITNESS: Yeah, I agree. And not only
24 that, it's an abuse of process. Mr. Deixler has abused
10:29 25 process of the Texas courts of the California courts by

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10:29 1 abusing the discovery process there in my wife's
2 lawsuit; and if he continues to do it here, I'm just not
3 going to participate in it.

4 MR. DEIXLER: All right. So just so it's

10:30 5 clear, the bias of the witness, his hatred for the
6 Church of Scientology and his economic competition with
7 the Church, goes directly to his motives for -- for
8 providing a declaration, which we'll soon get to, and
9 demonstrate that it is littered with falsity. But

10:30 10 that's -- that's a -- that's the -- that's the --

11 THE WITNESS: You guys are so --

12 MR. DEIXLER: -- intellectual underpinning
13 of the examination.

14 As to the question of how long it has

10:30 15 taken, as you'll see from the transcript, when you look
16 at it with care, Mr. Rathbun refuses to confine himself
17 to the question asked, but rather uses each question as
18 an opportunity to give an irrelevant, self-serving and
19 self-congratulatory diatribe. Were he to confine his
10:30 20 answers to the questions, we would have been past this
21 point an hour ago; but, alas, I can only do that which
22 the witness will cooperate in doing.

23 THE WITNESS: And Scientology --

24 MR. DEIXLER: I would like to --

10:31 25 THE WITNESS: -- policy --

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10:31 1 MR. DEIXLER: I would like to move on with
2 the examination. If Mr. Rathbun would confine his
3 conduct to the rules that would apply in federal court,
4 I think everything will go very smoothly and there will
10:31 5 be no -- no more problems in the case.

6 Q. (BY MR. DEIXLER) So let me -- let me ask you
7 again --

8 MR. BABBITT: Let -- let me -- let me just
9 respond to that. I --

10:31 10 First of all, I think his answers have
11 been entirely responsive. They may not be the answers
12 you're looking for, but they're completely responsive to
13 your questions. The problem with your questions are
14 that they are so far afield from the two issues in this
10:31 15 case.

16 I understand you're -- you're entitled to
17 show bias or prejudice, but there's a limit to how long
18 you can spend doing that. And to go through his entire
19 history with -- as to his -- there -- there isn't any
10:31 20 question, I think, Ms. -- if you ask the question
21 whether there is friction between him and the Church, he
22 would clearly respond to that with a yes answer. But to
23 go through every single time that he has had some
24 problem with the Church is -- it just -- first of all,
10:32 25 the Judge is not going to stand for that. And if we

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10:32 1 have to go to the Court to -- to limit you, we will, but
2 to go into his lawsuit without his lawyer present, it
3 seems to me is beyond the pail of what the Judge has
4 ordered.

10:32 5 MR. DEIXLER: Okay. So I disagree with
6 that. And my question was not at all relating
7 specifically to the lawsuit, but rather to the issue of
8 economic competition which relates to his bias in
9 presenting a declaration which is littered with falsity.
10:32 10 And so my question simply was, does he agree that the -
-

11 MR. BABBITT: What difference does it make
12 if a Judge has said something or not? The -- the Judge
13 is not being deposed. His opinion of what the Judge
14 said is not relevant. That -- that's the problem, is,
10:32 15 you're going in to something that is completely and
16 totally unnecessary.

17 MR. DEIXLER: Okay.

18 MR. BABBITT: Go ahead, sir.

19 MR. DEIXLER: Okay.

10:32 20 Q. (BY MR. DEIXLER) So we are on the -- let's --
21 let's return to the obstruction of justice period.
22 This was in early 1996. Tell me what your next
23 responsibilities were with the Church after you had
24 engaged in these instructions about obstructing
10:33 25 justice.

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10:33 1 A. Just on that issue that you were bringing up,
2 you've mischaracterized what -- what happened in the
3 court up there too in order to create a false impression
4 for this Court.

10:33 5 Scientology -- My wife sued Scientology
6 for an injunction to prevent and to get them to cease a
7 five-year campaign of harassment which she was
8 successful in obtaining. Scientology brought in 26
9 lawyers. One of their defenses is that they tried to
10:33 10 create this characterization that I was involved in
some
11 commercial competition with them. Notwithstanding the
12 fact that if you look at my web page and look at every
13 public utterance I've ever made, I, unlike them, have
14 never engaged in a commercial fashion. They have a
10:33 15 price list that asks for specific don- -- that requires
16 a specific fee for a specific service. I've never taken
17 a fee ever.

18 They even -- they even provided affidavits
19 from Church of Scientology staff members perjuring
10:34 20 themselves saying that I charged a fee. Never did in
21 the entire six years I was -- I have been out of the
22 Church of Scientology.

23 The Judge took their representation that
24 they said I was in competition with them to say this is
10:34 25 a business dispute, and the anti-SLAPP motion you

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10:34 1 brought there's an exception for business disputes, and
2 because you allege that you're in -- you're in
3 competition with Mr. Rathbun you can't bring an
4 anti-SLAPP motion. And so that's just to correct the
10:34 5 record on --

6 MR. DEIXLER: Yeah. Rather than -- rather
7 than further debate with you, I'll just ask you to turn
8 your attention at some point to finding of fact 19 in
9 connection with the Judge's order, but let's move on.

10:34 10 I move to strike your answer as
11 nonresponsive.

12 Q. (BY MR. DEIXLER) My question was after the --

13 A. It's not an answer. I'm just making a --

14 Q. Aft- --

10:34 15 A. I'm making a record because you're getting into
16 a legal argument with me and I'm not represented. I'm
17 representing myself. And you've mischaracterized the
18 record and I'm correcting it.

19 Q. After the obstruction of justice period that

10:35 20 you've described as occurring in early 1996 what were
21 your next responsibilities with the Church of
22 Scientology or its affiliates?

23 A. That period continued all the way through to
24 the day I left.

10:35 25 Q. You continue --

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10:35 1 A. That obstruction of justice, that -- the
2 obstruction of justice at various different times, David
3 Miscavige called upon me to forward that obstruction of
4 justice from December 5th, 2005 into December 10th
10:35 5 or 12th, 2004 -- 1995 -- December 5th, 1995 when Lisa
6 McPherson died until December of 2004 when I left.

7 Q. Okay. So that --

8 A. We didn't --

9 Q. That --

10:35 10 A. We didn't -- we didn't cover that period. You
11 covered an incident in an eight-year obstruction of
12 justice.

13 Q. Yeah. I was actually trying to cover that now.

14 You explained to me that in approximately

10:35 15 early 1996 you were involved in this -- these
16 conversations which led to the destruction of evidence,
17 and I'm asking, subsequent to that, to that period when
18 you were engaged in the obstruction of justice, what
19 responsibilities did you have with the Church?

10:36 20 You've told me that you continued to
21 obstruct justice from December of '95 through December
22 of 2004. Did I understand that correctly?

23 A. No, you didn't. I didn't say that.

24 Q. Okay.

10:36 25 A. You mischaracterize it constantly and

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10:36 1 consistently. You're -- you're -- you're invade --
2 engaged in some sort of hectoring.

3 No. I said that David Miscavige was that,
4 and he called on me, from time to time, from the period
10:36 5 of December 5th, 2000 -- 1995 until the -- till I left
6 ultimately in the second week of December 2004.

7 Q. Okay. So let me try to focus on your
8 responsibilities from December '95 until you left in
9 December of 2004. You have that time period in mind?

10:36 10 A. Yes.

11 Q. What were your responsibilities or position
12 from the period '95 to 2004?

13 A. I think the first post that I was assigned when
14 I got back to the International Base after being at
10:37 15 Flag, at the end of 2005 I believe the first post was
16 Director of Security RTC; and that was a very embracive
17 post. It had -- it had -- because I was briefed by
18 Miscavige's wife and Miscavige that because Miscavige
19 was so important to Scientology he was under constant
10:37 20 threat and, therefore, it was the most important post
21 in -- in the Scientology. So I could call upon anybody.
22 It was sort of a -- a open checkbook kind
23 of post over security. So it was over OSA, over the
24 security system of Scientology, over people who audit
10:37 25 and interrogate people on E-meters. Yeah. That was my

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10:37 1 next post.

2 Q. Okay. And how long did you hold that post?

3 A. That went from -- I'm not exactly sure. Again,

4 things morph and they -- they happen so quickly. I was

10:38 5 then dep- -- I -- I don't know. I think I was DIG

6 production or something several months later, sometime

7 later in '96 or early -- I think later in '96.

8 Q. Who was your senior at the time you were

9 holding this director of security post at RTC?

10:38 10 A. Shelly and Dave Miscavige. Kind of the two of

11 them.

12 Q. Anybody else senior to you?

13 A. (Indicating.)

14 Q. Okay. And then in '96 you were DIG production,

10:38 15 what does that mean?

16 A. I don't know. It was just a post he was

17 throwing out. Again, we were back in to the same -- you

18 know, I had left, came back under the thought that

19 Miscavige had a "come to Jesus" change of heart and

10:38 20 things were going to be rational again, and it was
right

21 back to the same old thing. The org board is

22 continuously evolving and changing.

23 All I know is that sometime in '97 I was

24 assigned to the post of inspector general, which was the

10:39 25 one stable post in RTC, the one post that L. Ron
Hubbard

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10:39 1 wrote to and created basically.

2 Q. And tell me what your responsibilities were as

3 the inspector general of RTC in 1997?

4 A. In '97, I had to handle Kirstie Alley's

10:39 5 divorce, I had to handle Lisa Marie Presley's blow up

6 with the Greta Sus- -- van Sut- -- I mean, all of this

7 celebrity -- Miscavige had me on all of this celebrity

8 dirty laundry and keep -- and John Travolta's dirty

9 laundry and -- and keeping it from going public.

10:39 10 Q. Uh-huh.

11 A. That was one of the main things he had me on.

12 Security. Having setting up a system where Miscavige

13 virtually never went anywhere off of Scientology premise

14 without hired outside special forces or -- or

10:40 15 highly-trained former PD, armed PD people.

16 Q. Uh-huh.

17 A. That was another big priority. The --

18 Q. What else did you do?

19 A. There was doing the -- putting together drills

10:40 20 for this whole reconfiguration of the way Scientology
is

21 applied that he had me primarily over. There was -- and

22 then he got me -- he -- he had me, from time to time,

23 involved in the copyright litigation, which was the big

24 thing then. There was Internet-related copyright

10:40 25 litigation. Scientology was suing people who had

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10:40 1 disclosed upper-level material on the Internet.

2 Q. Okay.

3 A. So --

4 Q. And how long did this period of responsibility

10:40 5 for celebrity-related matters, copyright litigation,

6 security for Mr. Miscavige when he left the premises of

7 a Church of Scientology-related facility, and working on

8 the drills that you have described, how long did that

9 series of services as the inspector general last for

10:41 10 you?

11 A. Until I left.

12 Q. Okay. And that was continuously --

13 A. In '04.

14 Q. -- then until December of 2004?

10:41 15 A. Yeah. And then there was the liti- --

16 McPherson litigation and all that went with that and

17 dealing with the protests on it. I mean, it was like

18 random. You know, that's the deal with Miscavige. It's

19 a "hey you" situation, and I -- you know, my best -- my

10:41 20 best description of it has been and still is I was

21 Miscavige's Mr. Fix-it.

22 So there's -- you know, we can sit here

23 and talk all day about all of the different things I had

24 to do; but if it was important to him, I had to go fix

10:41 25 it.

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10:41 1 Q. And your work was continuous as the inspector
2 general until December of 2004; is that right?

3 A. Well, actually February the 3rd, 2004.

4 Q. Oh, okay. So you -- you no longer had

10:42 5 responsibility as of February 3rd, 2004 for --
6 responsibility as inspector general?

7 A. Well, they -- I was put in isolation at that
8 time. After I -- after I escaped the International Base
9 and came back to Clearwater to sort out my relationship
10:42 10 with my wife, I was basically put in isolation --

11 Q. And --

12 A. -- for nine -- ten months under the promise
13 that Miscavige was going to see me, and the -- and the
14 yellow-bellied coward never showed up. And I finally
10:42 15 said, He ain't ever going to come, and left.

16 Q. Did -- Were you disappointed that Mr. Miscavige
17 didn't come to see you?

18 A. No. By that time I -- it was like being in
19 prison. You know, I literally was just -- I had -- I
10:42 20 sort of got my thoughts to the point where I really
21 didn't care anymore. I real -- I understood him. And
22 so it was what it was and I just -- it was time to go.
23 I mean, I literally -- it wasn't a big
24 dramatic thing. I literally put a -- a little overnight
10:43 25 bag over my shoulder, went down to the -- to the mill

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10:43 1 where I was doing six hours of work a day -- and it was
2 a Sunday, so there -- nobody's around -- and I just
3 went, What's to stay for? He ain't ever going to show
4 up. It ain't going to happen. And so I had nine -- I
10:43 5 had ten months to reconcile it mentally. So, no, it
6 wasn't a big disappointment by that time, so...

7 Q. At some point during the ten months, you --
8 your feelings were hurt that Mr. Miscavige hadn't come
9 to see you?

10:43 10 A. No. My -- I -- Huh? No.

11 Q. Were you happy he didn't come to see you?

12 A. No.

13 Q. You were sad?

14 A. I think I just explained it to you, didn't I?

10:43 15 Q. Were you sad --

16 A. Did --

17 Q. -- that --

18 A. Did I --

19 Q. -- Mr. Miscavige --

10:43 20 A. Did I not --

21 Q. -- didn't --

22 A. -- just explain it to you?

23 Q. Right. You did not.

24 MR. DEIXLER: And I move to strike this as

10:43 25 nonresponsive.

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10:43 1 Q. (BY MR. DEIXLER) Were you sad when -- that
2 Mr. Miscavige during the ten months that you were at
3 the mill, as you've described it --

4 A. Maybe at a certain --

10:43 5 Q. -- didn't come to see you?

6 A. Maybe at -- maybe at one point. I mean, he --

7 he -- I would sort out with -- with my wife -- it became
8 apparent that she was going to be the only person that
9 could talk to me because I told her when I came back --

10:44 10 Okay. You just skipped to a -- to a whole period. I
11 have to fill in some background.

12 I mean, I blew from The International

13 Base, escaped from imprisonment. There was -- I was
14 literally put into a prison, a torture camp prison that

10:44 15 David Miscavige was running on the base which he called
16 "The Hole." Okay? My wife called me several hours
17 later, and I told her I am never going back there again.

18 It's not going to happen. Miscavige has totally and
19 utterly lost his mind. He is running something that has
10:44 20 nothing any -- any justification under the -- under
21 Scientology as I understand it.

22 She said, What about me? I said, Good

23 point. Because you've never done anything to me and I
24 love you, and -- and she said, Well, at least call me

10:44 25 tomorrow, and she -- I promised her that.

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10:44 1 I called her the next day. She said,
2 Look, I've sorted it out with the boss. You don't need
3 to go back to the base. You can come back here. I know
4 you've got a lot of physical difficulties that haven't
10:45 5 been -- a lot of medical problems that have not been
6 addressed. You can have those addressed. Nobody's
7 going to hassle you and we can sort out what we're going
8 to do.
9 And then when I got there -- so I flew to
10:45 10 Clearwater. And then when I got there, it was apparent
11 that she was the only person that was going to talk to
12 me. I was put in an apartment by myself. Nobody else
13 had contact with me. And so she -- when she attempted
14 to address me as in -- in ethics with Scientology
10:45 15 ethics, which -- which this exhibit that we're going
16 to -- that you want to get to is all about too.
17 (Indicating.)

18 Q. Holding Exhibit 1 for the record.

19 A. It's a mind -- it's this mind manipulation that
10:45 20 goes on. She couldn't address these issues because I
21 was talking stuff about Miscavige that was hair-raising:
22 About beatings, about torturings, about people being
23 held sleepless for day after day after day, and
24 confinement and sleeping on floors.

10:46 25 She came back the next day and told me,

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10:46 1 COB has said he's going to see you when he comes down
2 for the March 13th event. March 13th came and went. He
3 never showed up. She said, It'll be May 9th. Because
4 she was with him. I saw her out my window of my
10:46 5 apartment. She spent plenty of time with him when he
6 was down in Clearwater. He said, It'll be May 9th. I
7 said, Okay. At that point I was disappointed, probably
8 mad, Mr. Deixler. Then in May said he was going to see
9 me again. The coward didn't show up again. All right?
10:46 10 Now, I really was mad. Because while he was down there,
11 her explanation was, He is so busy handling the entire
12 planet of Scientology he doesn't have a minute to sleep.
13 Well, twice, I saw him come by in the
14 middle of the afternoon and pick my wife up to go to a
10:46 15 Philadelphia Phillies' spring training game. Okay? And
16 twice he came by to go out and go out to the Friday
17 night movies routine with her. Okay? So it was a
18 bald-faced lie. Okay? So, yeah, I was probably angry
19 at that point, Mr. Deixler.
10:47 20 As time went on, perhaps, between May, he
21 promised again June because he comes down for the main
22 event -- the maiden voyage events and the Free Winds
23 every June and goes through Clearwater. On the way
24 down, didn't see me. On the way back, didn't see me.

10:47 25 At that point, probably sometime midsummer, I grew in

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10:47 1 those four months, five months that I had been there
2 physically and mentally by light years compared to my
3 previous 27 years of mind-numbing Scientology
4 experience. Okay? Just by being on my own, doing
10:47 5 physical work, getting my body into shape and reading
6 books outside of Scientology. Okay? And so by that
7 time, in the summer of 2004, there probably was a period
8 where I was sad. Not sad for me; sad for him.
9 And then by the time, when I finally left,
10:48 10 there really -- I -- what I tried to explain to you.
11 You wanted the long answer; I'm giving you the long
12 answer. I gave you the short answer; you didn't
13 understand it. Just like I said, I really didn't have a
14 lot of emotion connected with it. It was sort of like
10:48 15 it just ain't going to happen. There's no reason for me
16 to be here and I walked down the road.
17 Q. Mr. Rathbun, isn't it true that repeatedly
18 during your time at the Church of Scientology you tried
19 to make amends with Mr. Miscavige, he was uninterested
10:48 20 in that and, to this day, you harbor animosity toward
21 him and you are seeking to hurt the Church of
22 Scientology --

23 A. No. That's what these guys are told
24 by Miscavige.

10:48 25 Q. -- based upon --

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10:48 1 A. Absolutely not.

2 Q. Excuse me, sir.

3 A. No. I never did. You -- you've -- you've

4 begun it with a false premise and now you're going into

10:48 5 a speech about all of these nasty things I want to do.

6 Your premise is false, Mr. Deixler.

7 Q. Is it --

8 A. No.

9 Q. Let me complete my question.

10:48 10 A. I never once, during that entire period from

11 February 2004 until the day I left, ever attempted to

12 make a single amend to that guy. I demanded a

13 confrontation, a face-to-face, about his ordering people

14 to be tortured and beat and starved, and that man didn't

10:49 15 have the -- that man did not have the courage to do

16 that.

17 (Exhibit No. 2 marked.)

18 Q. (BY MR. DEIXLER) Let me mark as Exhibit No. 2

19 a Marty Rathbun Public Announcement, Re: Suppressive

10:49 20 Acts and let's take a moment, sir. Would you review

21 Exhibit No'd. 2 and tell me whether this is a document

22 that you yourself wrote?

23 A. This is a -- For the record, this is a year

24 earlier than when he asked me about trying to make

10:49 25 amends with David Miscavige. And this was two months

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10:49 1 prior to being sentence -- three months prior to being
2 sentenced to "The Hole."

3 Q. Is -- is -- is Exhibit No. 2 a document, sir,
4 which you wrote?

10:50 5 A. Well, sort of.

6 Q. The portion of Exhibit No. 2 in the first
7 paragraph where you talk about your facade of being
8 important or working on important things, what did you
9 mean by that phrase --

10:50 10 A. You'd have to ask Dave --

11 Q. -- at the time?

12 A. You'd have to ask David Miscavige.

13 Q. This is a document you wrote; did I
14 misunderstand?

10:50 15 A. Yeah. You misunderstood that.

16 Q. Okay. Tell me what part of it --

17 A. I will tell --

18 Q. What part --

19 A. I will tell you how this doc- --

10:50 20 Q. -- of it did you not write?

21 A. I will tell you how this document was -- was
22 created.

23 David Miscavige walks around the base very
24 much like Joseph Stalin or Adolph Hitler and he has a
10:50 25 little entourage: One carries his ashtray; one carries

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10:50 1 his Camel cigarettes and lights his cigarettes; another
2 carries a series of tape recorders. Every word that he
3 utters from the moment he gets up until the time he goes
4 to bed is recorded and transcribed. Okay? He comes in

10:51 5 and he's declare -- declaring all -- making people in
6 international management all declare themselves SP in
7 Scientology, and makes them write up, what they call,
8 their A to E, which is you're -- what you do when you're
9 declared a suppressive in Scientology if you want to
10:51 10 remain in Scientology. Step B is called the public
11 confession. All right?

12 David Miscavige comes into my office and
13 starts telling me, probably, on eight different
14 occasions, goes into long colloquies -- long soliloquies
10:51 15 about what a suppressive person I am and states
16 everything that's in this document. (Indicating.) I'm
17 declared suppressive verbally by David Miscavige, which
18 is completely illegal in -- in your Scientology ethics
19 system, but that's the way it is, and I have to write up
10:51 20 step B.

21 So I have to call his office and get all
22 of the transcripts of all of the things that he said
23 about Marty Rathbun being a suppressive person, and I
24 have to write up my step B and it has to include all of
10:52 25 those points; because when I submit this to him for

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10:52 1 okay, it has attached to it the transcripts of the times
2 he talked about it, and they're tabbed for virtually
3 every factual statement in here.

4 So this statement, perhaps, was physically

10:52 5 transcribed by me; but those thoughts are not my
6 thoughts. Those are David Miscavige's thoughts.

7 Q. I see. So when you wrote and published this
8 public announcement --

9 A. I didn't --

10:52 10 Q. -- about --

11 A. It wasn't published. Who said it was
12 published?

13 Q. It was a public announcement, was it?

14 A. That's what it's called in the book.

10:52 15 Q. I see.

16 A. It wasn't published.

17 Q. When you -- when you wrote the words the facade
18 of being important or working on important things, you
19 were lying?

10:52 20 A. I was writing David Miscavige's words.

21 Q. Did you believe that to be true?

22 A. Believe what to be true?

23 Q. That you had had --

24 A. Right now --

10:52 25 Q. -- a --

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10:52 1 A. -- or then?

2 Q. -- a facade of being important and working on
3 important things during the time you were with the
4 Church?

10:53 5 A. Then?

6 Q. Yes, sir.

7 A. Then I didn't think I did. Now I absolutely
8 do.

9 Q. So now you believe that you had a facade of
10:53 10 being important?

11 A. Absolutely.

12 Q. You had --

13 A. Just as I think every Scientologist has a
14 facade. I think it's part of the technology to create
10:53 15 this facade of being important. These guys this -- this
16 harassment that you're doing is the most important thing
17 on planet earth right now. I guarantee you.

18 Q. You believe now that you were mistaken in
19 believing you were working on important things, correct?

10:53 20 A. No. I believe that I was -- there was a facade
21 of -- I had a facade. It's part of the Scientology
22 thing. You mock up this facade. You mock up this
23 invented being.

24 Q. So did you believe yourself at the time to be
10:53 25 an invented being or a mocked up facade?

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10:53 1 A. I already told you. I already answered that
2 one. But again, at the time I believed it.

3 Q. Okay. You thought you were important, but now
4 you realize you weren't; is that fair?

10:54 5 A. No, no, no. At the time I wrote that, I
6 thought I really was important. I didn't think it was a
7 facade. Okay? Now, it's -- it's a complete facade.
8 Okay? Is that -- is that not clear?

9 Q. Okay. So let me understand. Your departure in
10:54 10 December of 2004, where did you go?

11 A. Texas.

12 Q. And you've lived your life since then, correct?

13 A. Huh-uh.

14 Q. Outside of the Church of Scientology?

10:54 15 A. Yes, sir.

16 Q. And you have participated on numerous occasions
17 in litigation involving people who were suing the Church
18 of Scientology; is that true?

19 A. Wrong. Another one of your

10:54 20 mischaracterizations.

21 Q. Okay. Well --

22 A. I -- I've prevented more people from suing
23 Scientology by my advice than ended up doing so. I've
24 done a declaration in two or three cases. Other than
10:55 25 that, you've got me mixed up with somebody else. I

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10:55 1 generally tell people to stay away from this form of
2 harassment.

3 Q. I see. So which cases have you assisted in
4 adverse to the Church of Scientology?

10:55 5 A. Well, actually I haven't assisted in any of
6 them. I've done declarations.

7 Q. And you don't think doing a declaration in a
8 litigation adverse to the Church of Scientology is being
9 helpful?

10:55 10 A. Is assisting?

11 Q. Yeah.

12 A. No.

13 Q. Okay.

14 A. It's a civic duty.

10:55 15 Q. Okay. So your responsibility has been
16 simply --

17 A. If you --

18 Q. -- discharging --

19 A. If you people -- if you people asked me for a

10:55 20 dec- --

21 Q. Mr. Rathbun.

22 A. -- a factual declaration on something that was
23 being sorted out in a court of law, I would probably
24 give it if you were -- if you were asking for what I
10:55 25 considered to be the truth.

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10:55 1 Q. I see. Well --

2 A. I know it's difficult for you to understand

3 because Scientology is all about us versus them. And

4 it's just crazy --

10:55 5 Q. Okay.

6 A. -- but that's the way it is.

7 Q. So -- so in what cases have you given a

8 declaration as a matter of civic duty --

9 A. So you want --

10:56 10 Q. -- in cases adverse to the Church of

11 Scientology?

12 A. I did a declaration in the Headley case. I did

13 a declaration in the Garcia case. And I don't know.

14 It's -- You know, you can tell me if you've got other

10:56 15 ones. I don't -- it's not a big deal to me. If

16 somebody asks me for facts that I'm aware of that sort

17 out an injustice, I'll do them.

18 Q. Did you assist your wife in connection with her

19 litigation?

10:56 20 A. Of course.

21 Q. Did you assist Mr. Montalvo in connection with

22 his litigation?

23 A. No.

24 Q. Did you assist Mr. Lindstein in connection with

10:56 25 his litigation?

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10:56 1 A. No.

2 Q. Anybody else that you've assisted --

3 A. Contrary --

4 Q. -- in a case --

10:56 5 A. Contrary --

6 Q. -- adverse --

7 A. -- to your perjured affidavits you've submitted

8 in my wife's case, the answer is no. You literally make

9 this stuff up. No. I did not assist those people.

10:56 10 I -- I advised Daniel Montalvo over and

11 over again that he had no idea what he was getting into

12 with you people and that he didn't have the resources;

13 and as much as I liked his attorney, he didn't have the

14 resources to take you people on and your -- your

10:57 15 policy-driven, use the court's for harassment.

16 Q. When did you first supply information in

17 connection with the case in which you are testifying,

18 sir; the Garcia case?

19 A. Supply information?

10:57 20 Q. Yes.

21 A. I don't know. I was -- I did that declaration.

22 I wasn't particularly -- I wasn't involved in this case,

23 so I don't know. I mean, Luis may have asked me

24 something, but I have no recollection of it. All I know

10:57 25 is that once it was being litigated, this issue came
up,

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10:57 1 and I believe Mike Rinder asked me if I could do a
2 declaration to clarify facts that had to do with
3 whatever you guys were alleging, and that's how this
4 declaration came about.

10:57 5 Q. I see. So was --

6 A. And I don't -- I don't know what the other
7 declaration is.

8 Q. Mr. -- Mr. Rinder was a person who approached
9 you about the writing of a declaration in connection
10:58 10 with this case?

11 A. Yes.

12 Q. And when did he make that approach?

13 A. Whenever this was, back in March/April.

14 Q. And did he make that -- that request of you in
10:58 15 person or on the phone?

16 A. Probably on the phone. But '013 -- early
17 '13 -- is this early '13 or '14? Thirteen. Had to be
18 by phone. I wasn't -- I hadn't seen him since December
19 and I didn't see him again till June.

10:58 20 Q. And what did he say to you?

21 A. I have no idea.

22 Q. Do you remember anything that he said to you?

23 A. No. I told you what he -- I said he approached
24 me about giving a factual declaration on issues that
10:58 25 were current in that case. If you think --

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10:58 1 Q. Now --

2 A. Go ahead.

3 Q. -- as of the time that Mr. Rinder asked you for

4 a declaration in connection with this pending case, did

10:58 5 you know Mr. Garcia?

6 A. Oh, yeah.

7 Q. And what involvement had you had with

8 Mr. Garcia and his request for refunds?

9 A. The only thing I recall is that sometime in

10:59 10 2012 he asked me something about a suit he was

11 contemplating. It was prior to the suit being filed and

12 he asked me something about it as if I knew about it.

13 And I said, Luis, I have -- he said, I

14 thought you were being briefed on this. I said, I have

10:59 15 no idea what this is about. Probably because I usually

16 advise people not to get involved in litigation.

17 He said, Well, would you review the

18 complaint? I said, Sure. And I did, and I made a

19 couple of comments, but they weren't adverse, for or

10:59 20 anything else. They were all about accuracy. But my --

21 the -- the crux of my sentiment that I -- that I

22 communicated to him was, Are you sure you want to get

23 involved in this? Oh, yeah. I want to take it all the

24 way. I said -- I said, Have you thought through an

11:00 25 end-game strategy? Well, no, I tend to take it all the

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11:00 1 way. I tend to -- to, you know, see the justice in it.

2 I said, That's not the way it works, man. These people

3 have so much money, they will take every penny you have.

4 And that was basically the crux of the conversation.

11:00 5 Q. So before a lawsuit was filed you spoke to

6 Mr. Garcia about facts which related to his contemplated

7 lawsuit --

8 A. I don't even know --

9 Q. -- is that true?

11:00 10 A. I don't know if I talked -- Well, I guess

11 indirectly perhaps. I looked at his complaint and there

12 was something in there -- you know, I looked at a couple

13 of things and I -- you know, I -- I think I also said,

14 You're going to have a problem proving your case because

11:00 15 all of the proof -- Scientology will create the proof

16 that doesn't exist and withhold the proof that does

17 exist, so... and they just -- there's no conscience and

18 no scruples about that.

19 And it was about all of this IAS stuff.

11:01 20 So I said, That's going to be very, very difficult

21 because they will literally abuse the court system.

22 They -- As a matter of policy, they must. They're --

23 they're -- they're required to by Scientology policy.

24 Q. That's -- Anything else you said to Mr. Garcia

11:01 25 on that occasion?

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11:01 1 A. I don't think so.

2 Q. Did you express to Mr. Garcia in effect your
3 view that there was a policy called "Fair game"?

4 A. Well, we -- he knew that.

11:01 5 Q. Okay.

6 A. That was a given.

7 Q. That -- that there was a policy?

8 A. He had seen that in -- in effect, yeah. You
9 guys have taken surveillance photos of his wife with me.

11:01 10 Photoshopped it and try -- and posted it up to try to
11 create an interim effect about how you guys are
12 everywhere.

13 THE WITNESS: Dude, hey, don't -- don't --

14 Q. (BY MR. DEIXLER) Is it --

11:01 15 THE WITNESS: -- don't squint at me.

16 Q. (BY MR. DEIXLER) Is --

17 THE WITNESS: You guys spent --

18 Q. (BY MR. DEIXLER) Is the --

19 THE WITNESS: You know, you -- Do you know

11:01 20 right as we're speaking right now that house that you
21 took that surveillance photo from, you're still paying
22 \$1,500 in rent for it and will continue to through the
23 end of the year 2015. Right now, just what I know of,
24 you, the Church of Scientology, has been spending for a

11:02 25 year, for two years, \$1,500 a month. They got another

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11:02 1 year to go on that.

2 They've got another house what -- which is

3 three hours away from where I live. Okay? At the same

4 time they're paying it -- for a year they've been paying

11:02 5 for another house \$3,400 a month all the way through

6 this year and I haven't been here -- there that entire

7 year. You people are spending \$5,000 a month to watch

8 places I used to be. Okay?

9 And -- and Luis had tasted some of this

11:02 10 obsessive -- obsessive harassment, obsessive obsession

11 with me and anyone connected with me, and so he already

12 knew all of that.

13 Q. (BY MR. DEIXLER) I see. So is there a fair

14 game policy in the scripture of the Church? Yes or a

11:02 15 no?

16 A. Yes.

17 Q. Okay. And continues to this day as far as you

18 know?

19 A. Oh, absolutely.

11:02 20 Q. Okay.

21 A. I'm the chief recipient of it.

22 Q. Okay. And you've never -- you've never

23 testified that there in fact was no fair game policy?

24 A. Oh, yeah, I have. It's a word game. I played

11:03 25 the word game.

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11:03 1 Q. I see.

2 A. Because you don't -- you want to say because,

3 oh, I never said, We no longer declare people fair game

4 but the policies for treating SP's remain the same.

11:03 5 Q. I see.

6 A. And that means may be sued, lied to, tricked,

7 cheated or destroyed without any discipline for the

8 Scientologist who does so.

9 Q. And if you --

11:03 10 A. And so -- and so it's -- it's a -- a word game;

11 and I played it effectively when I was in, but -- but it

12 is a word game.

13 Q. Did you think you were being honest when you

14 did that?

11:03 15 A. No.

16 Q. You thought you were lying?

17 A. I thought I was playing your game.

18 Q. Did you think --

19 A. You want to play -- You're playing word games

11:03 20 with me. I was playing word games back then.

21 Q. Did you think you were lying --

22 A. All war was fair --

23 Q. -- to judges?

24 A. All is fair is war -- in war and love.

11:03 25 Q. Were you lying to judges in playing what you've

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11:03 1 described as a word game?

2 A. You know, it's pretty remarkable in

3 declarations, like I said, it was as a matter of

4 Scientology policy, it's almost -- with this parallel

11:03 5 reality that you get into, it's almost -- it just

6 happens as a matter of course. I don't know what to

7 tell you.

8 Q. Were you lying to judges during the time you

9 were --

11:04 10 A. When you say --

11 Q. -- engaging in word games?

12 Sir, you're going to have to let me finish

13 my question.

14 A. Well, I know. But you -- but you see this

11:04 15 problem is, you say, Were you lying to judges? That

16 infers that I was in a seat talking to a Judge. Okay?

17 And I told you already that I can't think of an instance

18 where I told a Judge a lie, I perjured myself under

19 oath, I've testified a number of times in trials, in

11:04 20 depositions.

21 Declarations you can sit there and

22 formulate and, yes, they create a false picture by

23 playing word games and creating this -- this sort of

24 picture that everything Scientology is right and

11:04 25 everything against Scientology is wrong. And so through

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11:04 1 and through any declaration that comes from a
2 Scientologist in a Scientology case is pretty much going
3 to have that in it.

4 Q. Okay. So --

11:04 5 A. And so, yes, I did engage in that.

6 Q. About how many false declarations do you think
7 you filed then?

8 A. I have no idea. You guys have --

9 Q. Dozens?

11:05 10 A. You guys have them right here in the -- in the
11 thing. I -- I don't -- I don't think so.

12 Q. More than five?

13 A. I don't know.

14 Q. Okay. Well, let's go back to the Garcia matter

11:05 15 for a moment and then we'll examine some of your past
16 statements, if you -- if you will.

17 After telling Mr. Garcia -- Well, let me

18 withdraw the question and ask, what discussions did you
19 have with Mr. Garcia regarding your own involvement in

11:05 20 the creation/drafting of an arbitration provision in
21 Enrollment Agreements?

22 A. I didn't understand that question.

23 Q. Did you talk to Mr. Garcia about any

24 involvement you had in the drafting of an arbitration

11:05 25 clause in an Enrollment Agreement?

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11:05 1 A. I don't know.

2 Q. Okay. What involvement did you have, sir, in
3 the drafting of arbitration provisions in Enrollment
4 Agreements?

11:06 5 A. Well, it was one of those in-and-out things,
6 you know, between two -- in 1998 and 2002 -- 1998 -- for
7 about a four-year period, David Miscavige pretty much
8 had Mike Rinder and myself with him wherever he went;
9 because he was constantly micromanaging the Lisa

11:06 10 McPherson, first, criminal proceeding, and then civil
11 proceeding litigation -- and through us.

12 And in the course of that, we were

13 handling different post functions that we had, but...

14 Like he would go to Clearwater and we'd all pack up and

11:06 15 go to Clearwater. We could be there from anywhere from
16 three months at a time or we might be there for three
17 days.

18 And so this was an assignment Rinder had,

19 and this was Miscavige's -- it -- it really got started

11:06 20 at that time period because Miscavige was going to

21 create a Enrollment Agreement waiver quitclaim that

22 would shield him from any liability for killing another

23 woman -- or another person like Lisa McPherson was

24 killed, and that was the whole point of that thing. So

11:07 25 this thing went on for years back and forth. That's the

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11:07 1 way David Miscavige does things. It goes back and
2 forth.

3 And so I witnessed, you know, many times
4 he'd come in the room and sometimes, depending on his
11:07 5 mood, you know, he's yelling at me even though it's Mike
6 Rinder's project or he's yelling at me talking about
7 Mike Rinder. But it was really Mike Rinder's baby and I
8 was sort of, what we call in Scientology, cross-flowing
9 it. And sometimes he would say, God dammit, Marty, you
11:07 10 make sure blah-blah-blah, whatever clause or thing he
11 was going over at the time.

12 Q. Okay. So tell me, if you will, what you did in
13 connection with the creation of an arbitration provision
14 in any Enrollment Agreement, if anything?

11:07 15 A. I had conversations with Rinder and, you know,
16 based on Miscavige -- these soliloquies he would do,
17 these blow ups, these eruptions he would have, and so I
18 sort of counseled him or was there for him. Because we
19 were working out of the same office and, you know,
11:08 20 sometimes Miscavige would physically beat the hell out
21 of him, strangle him, throw him to the floor and kick
22 him, and I would be there to sort of pick up the pieces.
23 He's smirking, but he's -- he's been hit
24 himself. Ben Shaw.

11:08 25 Q. So --

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11:08 1 A. Okay.

2 Q. So I --

3 A. So this is what --

4 Q. -- maybe my question --

11:08 5 A. This -- so this is --

6 Q. -- was unclear.

7 A. This -- this should clarify for you the -- the

8 thing about the Scientology and the lying. Go ahead.

9 Q. Focusing all of your attention on my question,

11:08 10 if you would, sir.

11 A. Yes.

12 Q. What did you do in connection with the drafting

13 of an arbitration clause in an Enrollment Agreement?

14 A. I just told you. Okay? I was telling you and

11:09 15 now I'll finish.

16 And so Rinder was having to speak to Bill

17 Drescher because Bill Drescher was the general counsel

18 who he had to consult with on this thing, and he would

19 relay what D -- DM (David Miscavige's) latest order was,

11:09 20 and so there was some back and forth. Sometimes he'd

21 have it on the speaker box and I would have some back

22 and forth with Drescher or -- and/or Rinder about it,

23 but they were primarily doing it.

24 The thing that I definitely did was, I

11:09 25 always had to check it. It was -- I was on the routing.

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11:09 1 It would come through me to go to Miscavige. He might
2 get it and he say, Has Marty seen this? If the answer
3 is no, he'd throw it at my forehead.

4 Q. Okay.

11:09 5 A. And so I --

6 Q. You --

7 A. So I had to review these things against what he
8 had said and then have a conversation with Rinder about,
9 You're not satisfying this point or You are satisfying
11:09 10 this point.

11 Q. Okay. What -- what specifically do you recall
12 discussing with Mr. Rinder on the topic of an
13 arbitration agreement?

14 A. This arbitration thing and how Miscavige was --
11:10 15 he was having a big problem because he was being told
16 that if you rig the jury it's not going to be held --
17 upheld as a enforceable arbitration clause.

18 Q. Okay. And when did that conversation take
19 place?

11:10 20 A. Somewhere between '98 and 2002.

21 Q. And where did it take place?

22 A. Probably Clearwater --

23 Q. Okay. Do you --

24 A. -- conference room.

11:10 25 Q. -- have any notes -- notes or other aids to

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11:10 1 your memory to --

2 A. No. I left --

3 Q. -- refer to?

4 A. -- Scientology with nothing, just so you know.

11:10 5 They -- all of my notes, documents, nothing.

6 Q. Okay. Any other specifics that you can recall

7 in a discussion about an arbitration provision in an

8 Enrollment Agreement?

9 A. Of the -- just the arbitration provision?

11:11 10 Q. Yes, sir.

11 A. That he probably had to get with Lieberman and

12 somebody else. You got to go out, try to bypass

13 Drescher because Drescher was just adamant that it was

14 going to be seen as a -- as a fraud kangaroo court

11:11 15 provision and --

16 Q. When did that conversation take place?

17 A. Somewhere between '98 and 2002.

18 Q. Do you remember where you were?

19 A. Clearwater I think.

11:11 20 Q. Okay. And --

21 A. There may have been one at the base, but it's

22 very hard to say. Things were pretty insane up there.

23 Q. Did -- did you write on a piece of paper any

24 words that would be included in an arbitration clause in

11:11 25 an Enrollment Agreement on occasion?

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11:11 1 A. I don't know. It's possible.

2 Q. Did -- did you ever review with lawyers who
3 were engaged for the purpose of drafting such an
4 agreement draft documents --

11:11 5 A. Did I ever --

6 Q. -- containing --

7 A. -- draft documents?

8 Q. Did you review with lawyers who had been
9 engaged for the purpose of drafting an arbitration
11:12 10 provision in an Enrollment Agreement any portion of the
11 language that had been used?

12 A. Possibly.

13 Q. You don't remember?

14 A. (Indicating.)

11:12 15 Q. Okay. Do you know whether prior to this 1998
16 through 2002 time period that there were arbitration
17 clauses in any Church of Scientology-related documents?

18 A. I don't know.

19 Q. Did you yourself ever sign documents prior to
11:12 20 1998 which contained arbitration provisions?

21 A. I have no idea.

22 Q. Okay. Can you recall, prior to this discussion
23 you had in 1998 through 2002, talking with anybody about
24 an arbitration provision in any Church of Scientology
11:12 25 document?

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11:12 1 A. In '98 through 2002?

2 Q. Except in that period that you've already told

3 us about. Prior to that, did you ever have a

4 conversation with anybody about the arbitration

11:12 5 provision in any Church of Scientology-related document?

6 A. Quite -- quite possibly.

7 Q. Rather than assess possibilities, what's your

8 memory, sir? Can you recall a conversation?

9 A. I recall it coming up. I recall it coming up

11:13 10 and being an issue. I remember waivers and -- and

11 Enrollment Agreements being an issue from 1982 until

12 2004.

13 Q. Okay. And tell me with whom you discussed an

14 arbitration provision in 1982?

11:13 15 A. Arbitration specifically, I don't know.

16 Q. Okay.

17 A. I don't know.

18 Q. Other --

19 A. That --

11:13 20 Q. Other --

21 A. That was pretty low priority on -- on my thing,

22 so these things would just come and go. And literally,

23 like I said, Miscavige would -- I'd be on something

24 completely dis-related and Miscavige coming up blowing

11:13 25 up like Mt. Vesuvius, throwing half-empty water bottles

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11:13 1 at people's foreheads and screaming and hollering about
2 it.

3 Q. Right.

4 A. And suddenly I'm -- I'm in there, you know.

11:13 5 Q. Right.

6 A. Make sure that goddam -- you know, get on him.

7 Q. Okay. Get -- get on him.

8 So tell me what specifically Mr. Miscavige

9 instructed you to do regarding an arbitration provision?

11:13 10 A. I don't --

11 Q. Specifically, sir.

12 A. I don't think he instructed me. I -- I was

13 there with -- Rinder was always primarily responsible.

14 But I can tell you what he said in my presence; and it

11:14 15 was sort of the royal you. I mean, when he said

16 something to Rinder, I was expected to make sure he got

17 it done. If he said --

18 Q. Because --

19 A. If he said something junior to Rinder then

11:14 20 Rinder was expected to -- if he said anything to one of

21 these guys, Rinder was expected to see that they got it

22 done.

23 Q. Rinder was --

24 A. That's the --

11:14 25 Q. -- your --

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11:14 1 A. That's the way the --

2 Q. -- superior?

3 A. That's the way the pecking order works in --

4 Q. I see.

11:14 5 A. -- Scientology.

6 Q. I see. So -- so you were superior to Rinder?

7 A. Yeah.

8 Q. Okay. Rinder reported to you in effect?

9 A. No. Sometimes on some things.

11:14 10 Q. How about in connection with the arbitration --

11 A. I mean --

12 Q. -- provision in 1998?

13 A. -- when you say "reported to," see, it's not --

14 it -- Again, it's not like that. See, he's -- he's in

11:14 15 an organization: Church of Scientology International.

16 He's supposed to be the board of the directors and a

17 director, and he's supposed to be a member of the WDC

18 which is supposed to answer to the WC chairman which is

19 supposed to answer to -- that's supposed to be the end

11:14 20 of the road. Okay?

21 And then RTC's a whole different

22 organization that's supposed to handle a whole parallel

23 different universe; like they state in their

24 declarations, falsely, in my wife's case that you're a

11:15 25 counsel of record on, and in actual fact that's not the

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11:15 1 way it works.

2 On all matters external that are of

3 importance to David Miscavige, he goes directly to

4 Rinder or goes directly to me. If he goes directly to

11:15 5 Rinder, he holds me accountable for Rinder getting done

6 what he told Rinder to do.

7 Q. Did Mr. --

8 A. And that's how it works.

9 Q. Did Mr. Rinder, in 1998 through 2002, when you

11:15 10 claim to be having these discussions with him, report
to

11 you about the progress of the arbitration provision in

12 Enrollment Agreements? Yes or a no?

13 A. That's not a yes or no answer. I saw it. He

14 didn't -- I saw it. He was in -- I told you. We were

11:15 15 working in this conference room.

16 And I might be working on something about

17 golden age of tech, this new drills system that

18 Miscavige worked out, and Rinder's at the end of the

19 table getting hammered by Miscavige, or talking to Bill

11:15 20 Drescher on a conference recall, or talking to Neil

21 Levin for all of that -- for that matter, or somebody in

22 CSI (Church of Scientology International) legal

23 department and they might -- you know, and I might

24 comment on it.

11:16 25 Q. Can you recall any comments you made about the

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11:16 1 arbitration provision?

2 A. No specific ones. I know I did comment on this
3 problem. And the central problem was, you're going to
4 have a problem enforcing it when you rig the jury.

11:16 5 Q. And -- and --

6 A. And -- but David Miscavige always prevails.

7 Q. Okay. Rig the jury. When did --

8 A. Rig the jury.

9 Q. When did you say that?

11:16 10 A. The way that it work -- well, the way it works
11 out is that you -- when you put it in there David
12 Miscavige demanded that the IJC was able to determine
13 it.

14 At one point I recall it came up in a IJC

11:16 15 was to just -- it was like a regular -- you see the
16 fraud in the bait and switch that's being perpetrated on
17 the Court here is, that you're trying to take advantage
18 of the arbitration proceeding but then you have an
19 arbitration clause that has nothing to do with
11:17 20 arbitration. It has to do with I'm forcing you to bow
21 at the knees of the justice system of the Church.

22 That's the problem.

23 And so that problem was being pointed out,

24 and Miscavige said, I don't care. I -- It's got to be

11:17 25 controlled by us. The arbitration must be controlled by

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11:17 1 us. And that's the way they did it and that's how it
2 came out.

3 I don't know what's so -- so complex or
4 difficult to understand about all of this.

11:17 5 Q. Was the Scientology justice system a privilege
6 and benefit for Scientologists?

7 A. According to some writings by L. Ron Hubbard.

8 Q. Yeah. Any -- any time that you believed that
9 to be true?

11:17 10 A. I don't know.

11 Q. Did you know whether Scientology --

12 A. When I was running it, maybe. You know, like I
13 said, it was a pretty -- it was a pretty sane and safe
14 system between '87 and '90.

11:17 15 Q. From -- from '87 to '90 you were running the
16 justice system?

17 A. I built the justice system.

18 Q. You were running the justice system?

19 A. I built the justice system.

11:17 20 Q. And my question's a little bit different.

21 A. And I said, No. I built the justice system.

22 Q. Okay.

23 A. I was the last port of call. They could always
24 petition to me. You'll see through all of this --

11:18 25 this -- these policy things, the books that you put
into

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11:18 1 evidence, they all say, you know, ultimately petition to
2 Ron. Ron was dead for six years -- you know, ten years,
3 whatever it was, six -- four years, and I was -- he
4 set -- one of the things he said was RTC was the last
11:18 5 port of call. So people could petition me. So I was
6 the supreme court of your -- you know, one man supreme
7 court of that justice system.

8 Q. And -- and from '87 to '90 you built the
9 justice system, correct?

11:18 10 A. Rebuilt it, yeah.

11 Q. Rebuilt it.

12 And after '90 you didn't run the system,
13 did you?

14 A. Right. And it just deteriorated.

11:18 15 Q. Okay. So --

16 A. As everything does in Scientology if it's not
17 run with a firm iron glove from the top.

18 Q. Okay. So from 1990 to the time of your
19 departure, you didn't run the justice system, correct?

11:18 20 A. I never ran the justice system. We've had this
21 back and forth.

22 Q. Okay.

23 A. You keep trying to --

24 Q. Perfect.

11:18 25 A. -- mischaracterize my words. I --

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11:18 1 Q. Perfect.

2 A. I built it and I was the last port of call.

3 And, yes, and in fact I was sort of the last port of
4 call when I was the inspector general from '87 to 2004.

11:19 5 Q. Okay. And --

6 A. Now that you ask.

7 Q. And when you say you built it in '87 to '90,
8 what does that mean?

9 A. It means that I got Continental Justice Chiefs
11:19 10 put on post that were qualified for their posts, in all
11 of the seven or nine continents, however, Scientology
12 divides up the planet, which didn't exist. I got an IJC
13 on post who was a qualified person who could handle the
14 job.

11:19 15 I set up a line of communication between
16 me and him where I sort of mentored him and coached him
17 so that he learned to handle the job. I set up lines of
18 administration so that they were promoting Committees of
19 Evidence and -- and different Scientology justice
11:19 20 procedures so that they would actually be used and
21 carried forward and they weren't just kangaroo courts;
22 and set up this promotion of this whole last port of
23 call that you could always -- the -- the line of
24 petition that -- that everybody thought died with L. Ron
11:19 25 Hubbard wasn't necessarily dead. You could petition to

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11:20 1 RTC, which I handled it. I handled -- You know, and we
2 would have a whole different thing.

3 A board of review that he did, which he --

4 which Hubbard had advised, and I would appoint the board

11:20 5 of review with among scient- -- among RTC staff members

6 and then supervise that to be -- this is like the

7 supreme court. This is where they're -- they're

8 petitioning or they're going -- they're -- they're

9 saying, I've been screwed by the International Justice

11:20 10 Chief and all of his minions, they could still go to
RTC

11 and I administered all of that.

12 Q. So you were like a supreme court justice,

13 right?

14 A. I -- I made that analogy that I was a one man

11:20 15 supreme court.

16 Q. Uh-huh. And -- and -- and how long did you

17 serve as a one man supreme court justice?

18 A. Well, really, in nine -- like I said, '87

19 through '92 -- '90-'92, it was pretty kind of in effect.

11:20 20 And then when I came off of that post and everything
got

21 screwed around by Miscavige, it deteriorated to nothing.

22 When I got put on at inspector general in '97, I picked

23 up a lot of that again, that whole board of review line

24 and got that reinstituted. So between '97 and 2004.

11:21 25 Q. You were chief justice or --

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11:21 1 A. No. Not -- not really. No. You just -- I
2 know love -- you love to take those little things and
3 just make them, you know -- No, I wasn't.

4 Q. You were --

11:21 5 A. It was an analogy. I was the last port of
6 call.

7 Q. You were --

8 A. You came -- you could come to me. I said
9 between nine -- between '87 and '90, yeah, it was sort
11:21 10 of like that. Between '97 and 2004 I was the last port
11 of call, but it just wasn't -- it wasn't set up like
12 a -- a court system. There weren't -- it was -- it was
13 disorganized, but I was the last port of call.

14 (Exhibit No. 3 marked.)

11:21 15 Q. (BY MR. DEIXLER) So let me ask you to take a
16 look at what we'll mark as Exhibit No'd. 3. This is a
17 declaration of Mark Rathbun dated -- or signed
18 May 28th, 2013. Would you take a moment and look at
19 that, please.

11:22 20 And this is a --

21 A. Can I read it?

22 Q. Sure. But my question to you, when you're done
23 reading this -- these eight paragraphs is, is this a
24 document which you signed?

11:23 25 A. Okay. I -- I guess so. I really don't

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11:23 1 understand the purpose of this.

2 Q. Is that a document you signed, Mr. Rathbun?

3 Yes or no?

4 A. Per- -- Perhaps. It looks like my signature.

11:23 5 Q. Okay. Do you remember preparing a declaration

6 in this case which contains the information that is

7 recited --

8 A. That --

9 Q. -- in Exhibit 3?

11:23 10 A. Vaguely. I don't -- I couldn't tell you what

11 the purpose of this is even.

12 Q. You say in this declaration, I read the Church

13 motion and provided her... making reference to a

14 Ms. Sundarsingh --

11:23 15 A. Uh-huh.

16 Q. -- S-U-N-D-A-R-S-I-N-G-H.

17 A. Yeah.

18 Q. I provided her with a declaration that was

19 filed after you had read the Church motion.

11:23 20 A. Okay.

21 Q. Do you remember how the Church motion had come

22 to your attention?

23 A. I think I may have read it on a blog or

24 something. I don't know.

11:24 25 Q. It wasn't provided to you by a lawyer, correct?

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11:24 1 A. What?

2 Q. The Church motion.

3 A. I don't think so.

4 Q. So your best memory is that you had read this

11:24 5 motion on a blog or something?

6 A. On Scribbit or one of these wick -- wick --

7 WikiLeaks or something. Wherever Tony Ortega publishes

8 those things.

9 Q. Okay. So you --

11:24 10 A. Or picks them up or deposits them.

11 Q. You --

12 A. Like every filing that's made -- made in this

13 case, to my understanding, you know, is pretty much

14 immediately available on the Internet.

11:24 15 Q. Okay. And --

16 A. And so wherever I -- wherever I saw it, I saw

17 it.

18 Q. What prompted your review of the Church motion?

19 A. What prompted what?

11:25 20 Q. What prompted your review of the Church motion?

21 A. I don't know.

22 Q. As of the time that you executed this document

23 in May of 2013, had you spoken to Mr. Garcia about his

24 case?

11:25 25 A. I think pretty much only what I told -- you

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11:25 1 know, nothing beyond what I've already told you.

2 Q. Okay. So as of the time that you signed the
3 declaration, you had already had your conversation with
4 Mr. Garcia, correct?

11:25 5 A. Yeah. I told you it was --

6 Q. Okay.

7 A. -- before he filed the suit. I advised him
8 that it may not be such a good idea to sue. Do you
9 remember that?

11:25 10 Q. And since May 2013, have you again spoken with
11 Mr. Garcia about his case?

12 A. I don't think so.

13 Q. Have you spoken to Mr. -- Mrs. Garcia about the
14 case in any respect?

11:25 15 A. No.

16 Q. Okay. Have you ever discussed with Mr. Garcia
17 your understanding of the origination of the arbitration
18 provision --

19 A. I think you --

11:25 20 Q. -- that's at issue?

21 A. I think you asked that and I said I may -- that
22 may have been part of the conversation prior to the
23 suit.

24 Q. You don't remember?

11:25 25 A. I don't recall.

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11:25 1 Q. Okay. How about Mrs. Garcia? Did you ever
2 discuss with Mrs. Garcia anything about the origination
3 of the arbitration provision?

4 A. Possibly.

11:26 5 Q. Okay. You don't remember?

6 A. Don't -- don't independently recollect.

7 Q. Okay. Other than either of the Garcias is
8 there anybody that you can recall having discussed the
9 origination of the arbitration provision that con- -- is
11:26 10 contained in the enrollment form --

11 A. Mike Rinder.

12 Q. -- after you left the Church of --

13 A. Mike --

14 Q. -- after you --

11:26 15 A. Mike Rinder.

16 Q. -- left the Church of Scientology?

17 A. Mike Rinder.

18 Q. And -- and when did you discuss that with
19 Mr. Rinder?

11:26 20 A. I discussed that with him maybe a couple of
21 years before this suit was ever filed. And I couldn't
22 tell you who said what to who except beyond sort of the
23 gist of, Do you remember when we were in there creating
24 that? Because a lot of people inquired about refunds
11:26 25 and -- and so we discussed it a couple of years -- a

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11:26 1 couple of years -- a year or two before Garcia even
2 talked about any of this stuff.

3 Q. Uh-huh.

4 A. And then --

11:26 5 Q. Where was that conversation?

6 A. I don't know.

7 Q. Okay. Was it in 2010, 2011 --

8 A. I don't --

9 Q. -- 2012?

11:27 10 A. I don't know. Somewhere between 2010 and '12,
11 probably.

12 Q. And where did the conversation take place?

13 A. I told you I don't recall.

14 Q. Okay. So do you have any notes --

11:27 15 A. It's not that --

16 Q. -- of that?

17 A. No.

18 Q. Any notes of that?

19 A. No. It's not something --

11:27 20 Q. Any way to refresh your memory about any aspect
21 of it?

22 A. No.

23 Q. You remember what Mr. Rinder said to you or you
24 to him on that occasion?

11:27 25 A. Pretty much what I just told you about what

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11:27 1 went down and how insane it was.

2 Q. That from '98 to 2002 --

3 A. Thousand and four.

4 Q. Oh, to 2004?

11:27 5 A. Two thousand -- 2002. For him, it might have

6 been four. Because all of this stuff, I mean, it was --

7 like I said, it was an issue from '82 to 2004, but --

8 it's constantly at issue. But in '98 through '02, I

9 told you, he was hot on this because he thought it would

11:27 10 prevent the Church from being held liable from killing

11 somebody again, this Enrollment Agreement, so it became

12 a big deal. And I re- -- and then I told you, you

13 know -- and -- and so there's nothing more, you know, we

14 discussed other than, you know, recollections of how

11:28 15 insane it was and how we had to create this kangaroo

16 court.

17 Q. Kangaroo court. You remember using that term

18 "kangaroo" court?

19 A. I don't know.

11:28 20 Q. You remember at the time you were doing this in

21 1998, 1999, 2000, 2001 and 2002 thinking that you were

22 engaging in a creation of a justice system that you

23 thought was phony or a kangaroo court?

24 A. Yes.

11:28 25 Q. Did you feel bad about that?

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11:28 1 A. Yes.

2 Q. Do you think it was unethical?

3 A. I don't know. I felt bad about it. I -- and

4 I -- and I escaped a year later.

11:28 5 Q. Well, you --

6 A. I got out of there and haven't participated

7 since, so...

8 Q. You escaped in 2000 --

9 A. February 2004.

11:28 10 Q. February 2004.

11 A. Yeah.

12 Q. And so that would be two years after 2002?

13 A. Yeah. But you need to understand, this -- this

14 arbitration clause and this thing in creating an unfair

11:29 15 thing is like nothing compared to the stuff that goes

16 down day in and day out, and it -- it's like it's the --

17 was a super low priority compared to the stuff I had to

18 handle.

19 Q. Sure. I understand. You were very, very

11:29 20 important at the Church during the time you were there,

21 correct?

22 A. That's your characterization. I didn't say

23 that. I mean, if you think catering to Tom Cruise for

24 three months and not being able to talk to anybody or

11:29 25 handle any post functions because Dave is so infatuated

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11:29 1 with Tom Cruise, if you think that's important, then you
2 could characterize it that way.

3 Q. Is Exhibit No. --

4 A. I think -- I think it's obsessive. I think
11:29 5 it's -- I think it's aberrated and obsessive.

6 Q. Okay. Exhibit No. 3, did Mr. Rinder
7 participate in the preparation of Exhibit 3, this
8 declaration that you've provided?

9 A. This one? This one we're just looking at?

11:29 10 Q. Yes. Exhibit No. 3.

11 A. Not that I know.

12 Q. Okay. You don't remember having discussed it
13 with him or having had him actually drafting this
14 declaration, correct?

11:29 15 A. No.

16 Q. You drafted this yourself, correct?

17 A. I assume that. Or she may have given me an
18 outline. It looks like it's some kind of -- I don't
19 know what the point of this is, but -- but it says that
11:30 20 I -- that she -- I talked to her. I don't know even who
21 this woman is. I probably talked to her once in my
22 life.

23 Q. Did you write the words which appear on these
24 two pages that you signed? Yes or a no?

11:30 25 A. I don't know. She may have given me a draft

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11:30 1 declaration and I adopted some of her language and added
2 my own. That's pretty much the procedure that a lot of
3 lawyers use. There's -- I don't even know what point
4 she's trying to make.

11:30 5 Q. Whether you know what the point is, sir --

6 A. Well, if I knew what the point was I could tell
7 you. It probably might refresh my recollection as to
8 what was going on. It sounds like she wanted me to --
9 you guys made some accusation that -- I don't know. I

11:30 10 don't understand this declaration. What's the point of
11 this declaration?

12 Q. Sir, did you write the words which are --

13 A. I -- I told you --

14 Q. -- contained --

11:30 15 A. -- I don't know.

16 Q. -- in Exhibit 3 or were --

17 A. I told you I --

18 Q. -- they written --

19 A. -- don't know.

11:30 20 Q. -- by somebody else?

21 A. I told you I don't know.

22 Q. You don't know. You don't know how it was
23 created?

24 A. I don't know. It looks like a procedural

11:30 25 thing. And so she may have -- the attorney for Luis

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11:31 1 Garcia may have given me a draft and I may -- I may have
2 adopted a bunch of her language. There's nothing unique
3 to me in here.

4 This declaration, there's a lot of things

11:31 5 that are unique to me, that sounds like me.

6 (Indicating.)

7 Q. Okay.

8 A. So I don't know. This looks like some kind of

9 technical point that was trying to get handled. I don't

11:31 10 know.

11 Q. You have no memory of the creation of this

12 document, Exhibit --

13 A. I remember talking --

14 Q. -- No. 3?

11:31 15 A. -- to her. I remember talking to her and doing

16 a short declaration.

17 Q. What did you say to her?

18 A. I don't know.

19 Q. What did she say to you?

11:31 20 A. I don't know. It's sort of insignificant to

21 me. If you want to fill me in on the significance of

22 this, I might refresh my recollection.

23 (Exhibit No. 4 marked.)

24 Q. (BY MR. DEIXLER) Okay. Let's -- let's look

11:31 25 at Exhibit No'd. 4, which is your declaration that you

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11:31 1 keep --

2 A. In your --

3 Q. -- pointing to.

4 A. In your Garcia case.

11:31 5 MR. BABBITT: You're dropping out here.

6 I'm sorry. I -- I've --

7 Q. (BY MR. DEIXLER) Exhibit No. 4 is the

8 document that he has been several times pointing at,

9 which is in front of him; and now I'm giving him the

11:32 10 document -- the exhibit which has been numbered as

11 Exhibit No. 4.

12 MR. BABBITT: I said is that the

13 declaration of April 19th, 2013?

14 MR. DEIXLER: It appears to be. He'll

11:32 15 authenticate it, I hope, in a moment.

16 Q. (BY MR. DEIXLER) Mr. Rathbun, are you coming

17 back? Oh, okay. Good.

18 MR. BABBITT: Why don't we take a

19 five-minute break just for comfort.

11:32 20 MR. DEIXLER: Yeah. Let me -- let's just

21 authenticate the document and then we can take a break

22 if you'd like.

23 Q. (BY MR. DEIXLER) Exhibit No. 4, sir, is that

24 the declaration which you signed on or about

11:32 25 April 19th, 2013 in connection with this case?

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11:33 1 A. It appears to be.

2 Q. Is there any doubt in your mind that that's the
3 declaration --

4 A. Well, I --

11:33 5 Q. -- you signed?

6 A. -- haven't checked every single word, but I
7 checked the forms of the paragraphs with the one that I
8 know that I wrote and it seems to match up.

9 Q. Okay.

11:33 10 A. I wouldn't know about the exhibits; but I have
11 exhibits too so we can compare those as we go if there's
12 a problem.

13 Q. Sure. We'll -- we'll spend some time with that
14 as well.

11:33 15 A. Okay.

16 Q. And let me ask you, sir, did you write every
17 word that is contained in this document or were words
18 suggested to you by somebody else?

19 A. I'm pretty sure I wrote this. I'm pretty sure

11:33 20 I wrote this.

21 Q. Okay. So Exhibit No. 4 --

22 A. I don't remember.

23 Q. -- reflects --

24 A. I don't remember the process of this too much.

11:33 25 Q. Exhibit No. 4 reflects --

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11:34 1 A. But it looks like my writing. It looks like
2 my -- my -- the way I would coin things.

3 Q. Okay. So -- so Exhibit No. 4, the declaration,
4 reflects your words that you used as you drafted the
11:34 5 document, correct?

6 A. It appears to be that way.

7 Q. Okay.

8 MR. DEIXLER: Well, Counsel's asked for a
9 break and why don't we take a five-minute break. Is
11:34 10 that five minutes enough for you, Counsel? Mr. Babbitt?

11 MR. BABBITT: Plenty. Thanks.

12 MR. DEIXLER: Okay. Fine. Be back in
13 five.

14 THE VIDEOGRAPHER: The time is 11:34,
11:34 15 we're off the record.

16 (Short break taken.)

17 THE VIDEOGRAPHER: The time is 11:44 at
18 the beginning of Disc 2, we are back on the record.

19 MR. DEIXLER: Mr. Babbitt has asked that I
11:44 20 identify Sarah Heller, Neil Levin and Ben Shaw for the
21 record and as I speak I'm doing so.

22 Q. (BY MR. DEIXLER) Let's --

23 THE WITNESS: And, Ted, I pointed out
24 that -- for the record, that Neil Levin is in a leg- --
11:44 25 legal staff for Church of Scientology International.

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11:44 1 MR. BABBITT: Okay. Who -- who else is

2 there? I'm sorry. Sarah Heller. I know who -- I've

3 heard -- seen her name before, but what's her title?

4 MR. DEIXLER: She's working for me as the

11:44 5 paralegal on this matter.

6 THE WITNESS: She's a -- she's a staff

7 member of the Church of Scientology Flag Service

8 Organization.

9 MR. DEIXLER: And Mr. Levin is here

11:45 10 representing what I, in shorthand, refer to as the
ship;

11 and Mr. Shaw is representing the Flag Service

12 Organization. I'd like to proceed now.

13 Q. (BY MR. DEIXLER) Now, Mr. Rathbun, on Exhibit

14 No'd. 4, which you say you authored, would you first

11:45 15 describe for us the circumstances of your preparation

16 of this; that is, how did it come about that you

17 drafted this multipage document?

18 A. I think -- I think Mike Rinder got a hold of me

19 and -- He may have. I don't know. I may have got a

11:45 20 hold of him when I saw it. Like I said, I see some of

21 these pleadings. They get -- they go up immediately and

22 I get alerts and I look at them. So I may have seen it

23 myself. Whatever it is, I spoke to him initially about

24 what I considered the fraudulent nature of whatever it

11:45 25 is we're responding to here, and that, obviously, we
had

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11:45 1 facts about that and I'm prepared to share them. I
2 don't know whether I originated it or whether he did to
3 tell you the truth.

4 Q. Okay. You say you get alerts. What -- what

11:46 5 kind of alerts do you get?

6 A. Google alerts. Scient- --

7 Q. For what?

8 A. Scientology. Miscavige. I don't know. I

9 don't know how the thing's rigged, but they come up.

11:46 10 Don't you get Google alerts?

11 Q. And you have --

12 A. News alerts. Media alerts.

13 Q. And you -- and you have programmed your

14 computer system so that you receive alerts regarding

11:46 15 Mr. Miscavige and the Church of Scientology?

16 A. At one time I did. I don't now.

17 Q. When did you stop?

18 A. I don't know.

19 Q. Why did you stop?

11:46 20 A. A long, long time ago. Because I have no

21 interest in your -- in your gig.

22 Q. No --

23 A. I have no interest --

24 Q. No interest?

11:46 25 A. -- in these kind of mind games.

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11:46 1 Q. As of April of 2013, you were still -- had the
2 computer system programmed for alerts regarding the
3 Church of Scientology?

4 A. I -- I don't know. It may have been on. I

11:46 5 don't know. I don't know. Like I told you, I mean, I
6 have -- some of these things are -- they -- they come
7 up. Then I get an alert, I'll look at them. I might be
8 interested. I may not be interested. I may not look.

9 So I don't know.

11:47 10 I know that -- that Mike Rinder and I
11 spoke by phone. And I don't know whether I originated
12 to him or whether he origin -- probably he originated to
13 me, because for the last two years I've done everything
14 I can to try to disconnect from you people and you've
11:47 15 spent millions and millions of dollars to make that
16 impossible. And so probably he asked me whether I could
17 do a declaration knowing that I knew the facts about the
18 fraudulent nature of the arbitration clause.

19 Q. I see.

11:47 20 A. And then apparently I spoke to this woman. I
21 remember speaking to a lawyer at some point. In fact I
22 think that's what he did. He said, You're going to hear
23 from somebody in Ted Babbitt's office.

24 And I didn't -- I don't even know if he

11:47 25 knew the name, but I got an e-mail and we scheduled a

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11:47 1 time to talk and we spoke for a few minutes about it.

2 Q. And -- and what happened to that e-mail that
3 you received?

4 A. Probably shredded.

11:47 5 Q. And why was that?

6 A. Because I have a document retention program
7 since my computer's been hacked on so many occasions by
8 Scientology agents, so --

9 Q. What's the program?

11:48 10 A. Pardon me?

11 Q. What is your document --

12 A. It's --

13 Q. -- retention program?

14 A. It's loose -- it's pretty loose. But, I don't

11:48 15 know, every six months or so I will get rid of
16 communications that I don't want Scientology probing in
17 to and knowing about my personal life.

18 Q. And does that -- do you get rid of them
19 automatically, or do you have to go through your trash
11:48 20 and unload the trash?

21 A. I might put Scientology in an e-mail search and
22 then just trash it.

23 Q. Okay. So you have to do that as opposed to
24 having a system which automatically does it; is that
11:48 25 right?

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11:48 1 A. Well, yeah. I mean, I don't -- I don't know
2 that I have to, but I do. I mean --

3 Q. And --

4 A. -- if there's such a system, I'm not aware of
11:48 5 it.

6 Q. -- after you submitted your first declaration
7 in connection with this case, did you trash anything
8 that related in any way to the communications you had
9 with Mr. Rinder or to this lawyer who contacted you
11:48 10 regarding the case?

11 A. Probably not.

12 Q. You saved it?

13 A. Well, I didn't save it intentionally. I just
14 had an e-mail and I'm just saying it may be -- I don't
11:48 15 know.

16 Q. So the reason --

17 A. I mean, I -- I -- I looked -- you had an SDT
18 and I looked at those -- for those things. I did
19 searches on them and I didn't have anything that fit
11:49 20 within your categories.

21 Q. Did you bring any documents with you?

22 A. No.

23 Q. Okay. So given your document retention program
24 and the fact that these declarations were prepared in
11:49 25 April and May of 2013, and today is December 21st, in

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11:49 1 the ordinary course of business, you would have
2 destroyed whatever documents you had that pertained to
3 the Church of Scientology by the end of 2013?

4 A. I have no idea. You're -- you're just far too

11:49 5 formal. I told you a general sort of way I deal with
6 this stuff. I'm so done with you people I can't tell
7 you. I mean, you follow me to Los Angeles. You start
8 bringing my one-year-old child into this. You people
9 are despicable. I don't want to hear about you anymore.

11:49 10 Q. Right. Well, I --

11 A. I mean, I really -- I really want to be -- I
12 really want to be done with you.

13 And don't act like it's just your client.

14 Because you've done unethical and immoral things to try
11:49 15 to harm me and my wife.

16 Q. Right.

17 A. Okay? And -- and -- and --

18 Q. Mr. Rathbun.

19 A. And so it's not that formal, Bert. I just

11:50 20 don't want anything to do with you people.

21 Q. I -- I --

22 A. And you have hacked my computer on a number of
23 occasions.

24 Q. All right. Mr. Rathbun, let's try to focus our

11:50 25 energy and attention on the matters in the case.

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11:50 1 Now, we're talking about your document
2 retention program and the destruction or non-destruction
3 of e-mails or drafts which relate to the declarations
4 that are in evidence here. So you understand why I'm
11:50 5 engaging --

6 A. Not --

7 Q. -- in this?

8 A. Not really. I have no -- have had no
9 substantive communication with Mike Rinder. I've had no
11:50 10 substantive communication with any other -- any other
11 person than this woman, who I did the separate
12 declaration, saying I coordinated with to complete the
13 declaration.

14 Q. When you --

11:50 15 A. So I didn't send it to Mike Rinder. I didn't
16 send drafts to Mike Rinder. He didn't send drafts to
17 me. It didn't -- it didn't work like that. So it's
18 all -- you're making a big federal case out of something
19 that's -- that's nothing.

11:50 20 Q. So let me see if I can understand. The
21 document that we've marked as Exhibit No. 4 was filed
22 directly with the Pacer system in the United States
23 District Court, Middle District of Florida. Did you do
24 that or did someone do that on your behalf?

11:51 25 A. Probably this woman.

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11:51 1 Q. Okay. So you prepared a declaration and sent
2 it to somebody else?

3 A. Correct.

4 Q. Okay. This declaration, Exhibit 4, you sent to
11:51 5 a lawyer?

6 A. Probably.

7 Q. You don't remember?

8 A. No.

9 Q. Okay. You're sure you weren't the person

11:51 10 who -- who filed --

11 A. I really don't know.

12 Q. -- it with the court?

13 A. I mean -- I mean, it's -- these are facts that

14 somebody wanted to know. I gave them the facts. I

11:51 15 mean, you know, I have more important things in my
life.

16 I don't know.

17 Q. Yeah. My question now is very narrowly

18 focused. Did you file the declaration which you have --

19 A. Of course not. I'm not --

11:51 20 Q. Okay.

21 A. -- a lawyer. I gave it to the lawyers.

22 The lawyers in the case asked me for the

23 declaration. You have the declaration of me saying

24 that. I prepared the declaration. I gave them the

11:51 25 declaration and, apparently, it got filed in your case.

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11:51 1 I probably didn't even know it was filed
2 in your case until Friday when Ted said, Hey, your
3 deposition's coming up, and I went, Oh. And it's about
4 this arbitration clause, and I went, Oh, I did a
11:51 5 declaration on that. And I went and looked this up on
6 WikiLeaks and downloaded it.

7 Q. Okay. So -- so --

8 A. I mean, that's how much I care about this
9 stuff.

11:52 10 Q. My -- my focus at the moment is on the creation
11 of this Exhibit No'd. 4. Am I correct that you prepared
12 a declaration, including with the caption and the case
13 number, and signed it and sent it without any draft
14 preceding it to lawyers for Mr. Garcia?

11:52 15 A. Are you what to assume that?

16 Q. Am I correct in assuming that?

17 A. No. Of course not.

18 Q. Okay. So tell me how it was --

19 A. I wouldn't put that --

11:52 20 Q. -- created.

21 A. I wouldn't put the caption stuff on.

22 Q. So tell me how it was created.

23 A. Well, somebody -- the -- this woman asked me
24 for a declaration. I probably asked for the case

11:52 25 heading. She probably sent me a blank copy like that.

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11:52 1 Or I did -- I did it like this. That's generally how I
2 do things. I generally do it on a regular Word
3 process -- processing document, and I put Declaration of
4 Mark Rathbun, and I do it and I send it to them. They
11:53 5 put the case heading on it, put it in proper format.
6 That's generally how I do declarations so I assume
7 that's probably what I did here.

8 Q. Okay. You don't have a specific memory of the
9 creation of the document?

11:53 10 A. No.

11 Q. You do remember spending time writing the
12 document --

13 A. Oh, yeah.

14 Q. -- correct?

11:53 15 A. Yeah.

16 Q. How much time did you spend about?

17 A. Probably three hours with -- with having to dig
18 up the references.

19 Q. And were you assisted in any way by anybody in
11:53 20 the preparation of the document in terms of a
suggestion

21 of what to include or what to attach or not to include
22 or not to attach?

23 A. That woman. The lawyer, you know, worked with
24 me on it, you know, how it --

11:53 25 Q. Oh, she did. What did she say to you?

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11:53 1 A. Sundar- -- Sundarsingh. And I don't know what
2 happened to her. I never heard from her again. I mean,
3 I just did that. See, this is just like a big -- not a
4 big, big event in my life.

11:53 5 She wanted a declaration. I did a
6 declaration. So we had some back and forth. She
7 probably put that on it. I think I had to scan and
8 e-mail her some of the exhibits as I recall. I'm pretty
9 sure. But I'm not sure because I may have UPS'd them;
11:54 10 but I think I -- I think I may have sent her exhibits.

11 Q. About how many conversations --

12 A. Or, you know, what I may have done? I may have
13 given them to her and told her, You've got a peer --
14 paralegal team. Maybe you guys can get the exhibits
11:54 15 or -- because I'm pulling from my -- I have the volumes
16 where these things come from on my shelf. The policy
17 volumes of Scientology. I cite to a bunch of policies
18 in here.

19 Q. You may have done that, but I'm really focused
11:54 20 rather on what you recall doing.

21 A. I don't recall. I -- I recall putting these
22 facts together. And how the logistics got done on it
23 and who the courier service was that ran it down there
24 or what paralegal punched the Pacer system, I don't have
11:54 25 a clue.

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11:54 1 Q. Okay. Yeah. I wasn't really focused on that.

2 A. Yeah, you were.

3 Q. I'm more about the substance and the decision

4 to include or not include exhibits.

11:55 5 A. No, no, no.

6 Q. Look at --

7 A. That's me. That's my declaration.

8 Q. Your decision --

9 A. As far -- as far as I know. But I may have had

11:55 10 some back and forth with the -- with the lawyer that

11 they assigned to collect the affidavit.

12 Q. You don't remember one way or the other?

13 A. I don't.

14 Q. It just kind of blends in your memory?

11:55 15 A. I didn't say that it blends. It's just not

16 that important to me.

17 Q. I see.

18 A. These are policies that I'm aware of and --

19 Q. Okay.

11:55 20 A. -- people do -- people do paralegal work.

21 Q. Okay.

22 A. That's why they hire lawyers.

23 Q. So let me -- let me start by asking you to

24 focus your attention on paragraph No'd. 3 of your

11:55 25 declaration, Exhibit No. 4, and in the second sentence

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11:55 1 you say, For the last seven years of my employment with
2 RTC I served as the inspector general... Do you see
3 that?

4 A. Yep.

11:55 5 Q. And that's not accurate, is it?

6 A. No. It's -- it's completely accurate.

7 Q. Weren't you as you --

8 A. '07 to '04. I mean, '97 to '04. I -- We've
9 already testified to this five times.

11:56 10 Q. Weren't you -- to use your term -- in "The
11 Hole" starting in February of '04?

12 A. Nobody took me off post.

13 Q. So you --

14 A. In fact to this day, Mr. Deixler, there's

11:56 15 nothing. If you want to -- if you want to get into all
16 of the Scientology policy, you know, you must follow

17 L. Ron Hubbard to the tee, I don't have a dismissal

18 order. I don't have a -- a personnel order that takes

19 me off post. I was never called for a comment. I was

11:56 20 permanently posted. You're required to have a comment

21 in order to take somebody off post. I could be the

22 president of RTC at this moment, for all I know, because

23 nobody's informed me that I was taken off the board of

24 RTC which I served on for almost twenty years.

11:56 25 Q. I see. Do you think you are a member of the

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11:56 1 board of RTC?

2 A. No.

3 Q. Do you think when you were -- to use your

4 phrase -- in "The Hole" starting in February of 2004 --

11:56 5 A. Oh, yeah. Absolutely. "The Hole" --

6 Q. -- that you --

7 A. "The Hole" had nothing to do with posts or

8 being off post.

9 Q. Would let me finish.

11:57 10 A. Everybody in the pole -- everybody -- I can

11 anticipate your questions. You're taking all day to --

12 to try to -- to try to wrangle and play word games with

13 me. Everybody in "The Hole" had their posts. Okay?

14 Nobody had a -- I already told you. Nobody had a

11:57 15 personnel order taking them off post. One day you're

16 nobody. The next day you've got a -- you're responsible

17 for everything that happens under the -- the auspice of

18 the inspector general. So, no.

19 Q. So, Mr. Rathbun --

11:57 20 A. So -- so --

21 Q. -- here's --

22 A. So I was --

23 Q. Here's --

24 A. So all of this --

11:57 25 Q. Here's --

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11:57 1 A. -- bullshit that you got from these guys about
2 how I was demoted and taken off post never happened.

3 Q. Okay.

4 A. I escaped your -- your criminal organization --

11:57 5 Q. Okay.

6 A. -- that has made you so wealthy. I escaped
7 physically.

8 Q. Right. You finished?

9 A. Yeah.

11:57 10 Q. Okay. So here's the way it has to run hence
11 forward or we're going to adjourn. I will call the
12 Judge and we'll --

13 A. Go ahead.

14 Q. -- and we'll have the --

11:57 15 A. Be my guest. Because I'm not going to take
16 directions and orders from you. This is all part of the
17 squirrel buster stuff. You all want to get in my head.
18 You all want to push buttons. It's garbage. I've --
19 you've asked me questions. You've hectored me. You've
11:58 20 asked me questions that I've answered -- asked and
21 answered five, six times, over and over and over. I
22 suggest you conduct yourself in a moral and ethical
23 fashion and let's proceed.

24 Q. Mr. Rathbun, the way the deposition is going to
11:58 25 run is, I'm going to ask you questions, and you're
going

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11:58 1 to allow me to complete my question. You're then going
2 to give a responsive answer. If you don't --

3 A. Just for the record, this guy over here is
4 shaking his head and smirking and -- and making guffaws.

11:58 5 (Indicating.)

6 Q. Right. If you don't --

7 A. It's -- it's a little bit of a -- a little bit
8 of a bull bait as they say in Scientology.

9 Q. If you don't --

11:58 10 MR. BABBITT: Who is "this guy,"

11 Mr. Rathbun?

12 THE WITNESS: Ben Shaw from Flag Service
13 Organization.

14 MR. DEIXLER: Do -- Doing no such thing.

11:58 15 THE WITNESS: Who from 1998 to 2004 worked
16 directly for David Miscavige on the Lisa McPherson case.

17 Q. (BY MR. DEIXLER) Okay. So, Mr. Rathbun, so
18 you'll have to respond to my questions. I'll allow
19 you to finish your answers and then we'll move to the
11:58 20 next questions. That's out of respect for the court
21 reporter, out of respect for the --

22 A. No, it isn't.

23 Q. -- the federal judge, this is how proceedings
24 will have to ensue.

11:59 25 A. And it is how they've ensued to date and you

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11:59 1 just keep abusing the process in an immoral and
2 unethical fashion. But go ahead. Let's go. Proceed.

3 I know the rules. Let's go.

4 Q. From February 2004 until December of 2004, did

11:59 5 you serve as the inspector general of RTC?

6 A. Yes.

7 Q. Okay. Tell me in February 2004 through

8 December of 2004 how you provided service as the

9 inspector general; what did you do as the inspector

11:59 10 general of RTC during the time you were -- to use your
11 term -- in "The Hole"?

12 A. I kept David Miscavige in check.

13 Q. Kept it -- Did you speak to Mr. Miscavige in

14 the period February 2004 --

11:59 15 A. Asked and answered. No, I didn't.

16 Q. Okay.

17 A. He refused to see me. He kept saying he was

18 going to see me; but he knew that I wasn't backing down.

19 You kept talking about, well, you went and made amends

12:00 20 and you did all of these things to get back -- No. I

21 never did, Bert. Never happened. I sat there and

22 waited for that meeting. Okay?

23 And I sat there for ten months and he

24 never showed; and then promised four times to show and

12:00 25 never did. And so during that period, he was nervous as

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12:00 1 a long-tailed cat in a room full of rocking chairs
2 because he didn't know which way the wind was going to
3 blow. So, yes, I was doing my job as inspector general.
4 Read the book that's been put into evidence by Webber or
12:00 5 Lucas or whoever that Ellis guy is and it's all in
6 there.

7 Q. Okay. Tell me --

8 A. So it's all Scientology ethics tech.

9 Q. Tell me what specifically you were doing while
12:00 10 you were in "The Hole" as the inspector general?

11 A. I told you between the 4th -- the 3rd of
12 February 2004 when I got on my motorcycle, four days
13 after -- three or four days after being put in "The
14 Hole," until today as a matter of fact, I've been --
12:00 15 I've been really just putting ethics in on David
16 Miscavige, which is a duty of the inspector general of
17 RTC.

18 THE WITNESS: You certainly aren't, Ben.

19 You're a coward. Every one of you little punks is a
12:01 20 coward.

21 Q. (BY MR. DEIXLER) And how were you putting
22 ethics in from "The Hole" for a man who you had no
23 communication with?

24 A. I didn't tell you that I did it in "The Hole."

12:01 25 I told you when I decided to escape "The Hole" and from

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12:01 1 there on forward.

2 Q. So after December of 2004; is that what you're
3 talking about?

4 A. No. After the 3rd -- No. I went in "The Hole"

12:01 5 three days or four days before the 2nd of February 2004.

6 I lasted three to four days in "The Hole."

7 Q. Right.

8 A. I escaped. I went back to Clearwater.

9 Q. Right.

12:01 10 A. The next day, two days later, and I was there
11 until the 12th -- 10th or 12th of December 2004. Okay?

12 Q. And during that time period you were working in
13 the mill, weren't you?

14 A. I was -- I was doing six hours of work in the
12:02 15 mill.

16 Q. And you were the rest of the time in that
17 apartment that you've described all by yourself,
18 correct?

19 A. No. I was working out every day.

12:02 20 Q. Uh-huh.

21 A. I was taking long walks and then I was in the
22 apartment by myself, yeah.

23 Q. During that time period --

24 A. Uh-huh.

12:02 25 Q. -- from February 2004 through December of

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12:02 1 2004 --

2 A. Uh-huh.

3 Q. -- be you in "The Hole" or in Clearwater

4 working in the mill, tell me, if you will, what you did

12:02 5 as the inspector general.

6 A. I called out David Miscavige and I didn't back

7 down like all of you slaves. Okay? And it's never

8 happened before. And the coward promised -- kept hoping

9 that I was going to have a relapse, I was going to

12:02 10 regress, and put it all on myself (as Scientology

11 teaches you to do), and I didn't do it. Okay?

12 Miscavige has never, ever had to face that before.

13 And here he is -- Okay? You ready? --

14 almost ten years later spending a million dollars a

12:03 15 month trying to destroy me. Okay? Yeah. Including --

16 Q. When --

17 A. -- your salary --

18 Q. When --

19 A. -- Bert.

12:03 20 Q. When -- when you called him out, how did you do

21 that from the mill?

22 A. I already told you I didn't. I already -- I --

23 This is asked and answered absolutely. It was the

24 discussion with my wife who was assigned to handle me

12:03 25 and I'm not going through it again.

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12:03 1 Q. Okay. So "called out" meant you asked your
2 wife to arrange a meeting with Mr. Miscavige and that's
3 how you served as the inspector general of the -- of
4 RTC?

12:03 5 A. No. You've mischaracterized my testimony.
6 I've testified to this for 45 minutes and if you didn't
7 get it. You did -- you know, you didn't get it. That's
8 your problem.

9 Q. Yeah. So other than talking to your wife, what
12:03 10 else did you do as the inspector general of RTC during
11 the period from February 2004 to December of 2004?

12 A. Your question is unintelligible. You're --
13 you're assuming facts that I didn't state and I can't --
14 it's unanswerable.

12:04 15 Q. Okay. Please do your best.

16 A. I can't. I've already answered. I've already
17 answered your questions and you're just -- you're
18 re-asking them because you don't like my answers.

19 Q. You -- you go on to say in this sentence that
12:04 20 during the period until December 2004 your --

21 A. Uh-huh.

22 Q. -- duties consisted of supervising, policing
23 and directing the office of special affairs.

24 A. In this dec- -- we're back to the declaration?

12:04 25 Q. Yeah. Exhibit No. 4. Tell me if --

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12:04 1 A. Which paragraph?

2 Q. Exhibit No. 4.

3 A. Uh-huh.

4 Q. Paragraph No. 4.

12:04 5 A. Yes. Okay. Second -- second sentence?

6 Q. Yeah.

7 A. Okay.

8 Q. Additionally while employed...

9 A. Yeah.

12:04 10 Q. Okay.

11 A. Yeah.

12 Q. So tell me from February of 2004 through

13 December of 2004 how you directed the office of special

14 affairs.

12:04 15 A. Same answer.

16 Q. I'm sorry. I don't understand that. What

17 is --

18 A. I -- I --

19 Q. How did you direct --

12:05 20 A. I --

21 Q. -- the office of special affairs?

22 A. I know you don't understand it.

23 Because I was standing up to Miscavige.

24 And he was in a state of shock and he had to put a lot

12:05 25 of things on hold that he would other -- evil things on

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12:05 1 hold that he would otherwise do. There's no -- there's
2 no other answer.

3 Q. How did you know Mr. Miscavige's state if you
4 didn't speak to him?

12:05 5 A. Because I blew in two -- in 1993. We've
6 already covered this. I blew in 1993. He got on his
7 knees, literally got on his knees, cried and begged my
8 forgiveness, and promised me it would -- he would never
9 go there in that dark place again. Okay?

12:05 10 The only thing that did it, Mr. Deixler,
11 if you'll listen to me, was leaving and getting out of
12 his perimeter of mind control. Do you capiche? Do you
13 get that?

14 Q. We are focused on the period from February to
12:05 15 December of 2004.

16 A. I answered your -- I just answered your
17 question.

18 MR. DEIXLER: I'm sorry, sir. It was
19 nonresponsive. I move to strike the answer.

12:05 20 Q. (BY MR. DEIXLER) So concentrate, if you will,
21 upon the period February of 2004 through December of
22 2004 and tell me, if you will, what you did to
23 supervise the office of special affairs.

24 A. I stood up to David Miscavige and put his evil
12:06 25 intentions that he would otherwise do through the
office

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12:06 1 of special affairs on hold. And I had Ben Shaw and
2 these people keeping an eye on me around the perimeter
3 and were -- which prevented them from being out
4 harassing and screwing with people.

12:06 5 Q. Were you supervising the people in the office
6 of special affairs while you were either in "The Hole"
7 or in Clearwater working on the mill?

8 A. I just told you. That's all I -- I told you
9 what I did. That's the totality of what I did and I
12:06 10 didn't do anything else. I stood up to David Miscavige.

11 Q. And -- and again, so I understand, standing up
12 to David Miscavige meant waiting for him to come to see
13 you?

14 A. No.

12:06 15 Q. And you --

16 A. His representative came to me and said, I can't
17 handle this because you're talking about stuff this
18 guy's up to that just is mind boggling. I -- Let me get
19 back to you. She gets back to me the next day. This is
12:06 20 where the isolation began; because every day she was
21 checking on me. And then when I brought up the stuff
22 that was going on at the land base that David Miscavige
23 was engaged in: Beatings, torture, okay, deprivation of
24 food, deprivation of sleep on an organized basis. Okay?

12:07 25 As I went through that with her, she was like -- her
jaw

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12:07 1 just dropped. Like --

2 Q. Uh-huh.

3 A. Okay? So she went back to Miscavige. Came

4 back and said, He's going to meet you. He said he's

12:07 5 going to meet you when he comes down here on March 13th.

6 In other words, ain't nobody else can

7 handle you except for David Miscavige. Okay? But

8 see -- Okay. So -- so -- so, yeah, so that was standing

9 up to David Miscavige. He --

12:07 10 Q. By talking to your wife?

11 A. You -- you're try -- you're trying to put it on

12 me.

13 No. Not my wife. How many times do I got

14 to tell you? She was the -- the person designated by

12:07 15 Miscavige to deal with me.

16 Q. Did you have a --

17 A. So that was David Miscavige's personal

18 representative, personally warranted to me, that I was

19 too tough to handle and David Miscavige was going to see

12:07 20 me personally on the week of March 13th, 2004.

21 When he didn't see me, she later lied to

22 me and said he was just too busy because he has to

23 handle all of planet earth and he's got all of these big

24 things going on. And like told you before, I'll testify

12:08 25 again, twice I saw him going out to a Philadelphia

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12:08 1 Phillies game for the entire afternoon in the middle of
2 the workweek while all of these mindless robots are
3 slaving their butts off, and twice he went -- came by to
4 pick up my wife to go take her out to the movies.

12:08 5 So he was doing two things: One, he was
6 screwing around; and two, he was corrupting my wife and
7 turning her against me.

8 Q. Okay. So the person that you've accused of
9 lying here is your former wife?

12:08 10 A. No. David Miscavige.

11 Q. When your wife was telling you he was going --

12 A. There's a policy in Scientology --

13 Q. -- to meet --

14 Why don't you let me finish my question --

12:08 15 A. -- in the time of --

16 Q. -- Mr. Rathbun?

17 A. There's a policy and call in Scient- --

18 Q. What are you afraid of? Why are you afraid to
19 let me finish my question, sir?

12:08 20 A. Because you say "so." So you -- you're --
21 you're -- you're -- you're telling me already you're not
22 accepting my answer and I know where you're going.

23 Q. Mr. -- Mr. Rathbun. Mr. Rathbun, don't be
24 afraid of my questions.

12:09 25 A. I'm not afraid of your questions.

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12:09 1 Q. Allow me to complete them.

2 A. I'm trying to get out of here. I have a
3 one-year-old child. I have a wife that you guys have
4 incessantly --

12:09 5 Q. The way --

6 A. -- harassed.

7 Q. -- to get out of here --

8 A. You have people who --

9 Q. -- is to comply with the rules.

12:09 10 A. I know. And I wish you would.

11 Q. And so answer my questions after I've completed
12 them and answer responsively and you'll be able to get
13 out of here.

14 A. You've got about 45 minutes, Mr. Deixler.

12:09 15 You'd better get --

16 Q. And don't threaten me --

17 A. You'd better get to it.

18 Q. -- one more time.

19 A. You --

12:09 20 Q. Don't threaten me one more time.

21 MR. BABBITT: Okay.

22 A. You've got 45 minutes. You better get to it.

23 Q. (BY MR. DEIXLER) I -- I'm -- I'm going to
24 take as much --

12:09 25 MR. BABBITT: We've been --

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12:09 1 Q. (BY MR. DEIXLER) -- time as is necessary.

2 MR. BABBITT: Excuse me. Now, we've been

3 going now almost over three hours.

4 THE WITNESS: Yes.

12:09 5 MR. BABBITT: Actually a little over four

6 hours and I have at least an hour's worth of

7 questioning. So if we can't finish today, we're just

8 going to have to reschedule for rest, but I -- I'm

9 definitely --

12:09 10 THE WITNESS: You're probably going to

11 have to get an order because I don't have the time for

12 this.

13 MR. DEIXLER: Well, you -- we're going to

14 finish --

12:09 15 MR. BABBITT: Well, see, and that's part

16 of --

17 MR. DEIXLER: -- the deposition.

18 MR. BABBITT: -- that's part of the

19 problem is, we -- we've spent so many hours on matters

12:10 20 tangential to the issues here. I -- I want to get to

21 the issues. My -- The whole deposition will only take

22 an hour, but I need to do that.

23 MR. DEIXLER: Yeah. I -- Me too.

24 MR. BABBITT: So I want --

12:10 25 MR. DEIXLER: I -- I want to get -- I want

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12:10 1 to -- I want to continue my examination without
2 interruption.

3 THE WITNESS: And demonstrating.

4 MR. DEIXLER: Without -- without totally
12:10 5 inappropriate behavior. Were Mr. Rathbun to act this
6 way in front of the Judge, I guarantee you the Judge
7 would shut it down because it is disrespectful,
8 dishonorable and obstructionist.

9 THE WITNESS: What you do is
12:10 10 disrespectful, dishonorable, immoral and unethical.

11 MR. DEIXLER: And so what I'd like to do
12 is continue the examination without interruption,
13 without this misconduct by the witness, and we'll be
14 able to proceed seasonably; and that's what I intend --

12:10 15 MR. BABBITT: Well, I think we --

16 MR. DEIXLER: -- to do.

17 MR. BABBITT: I think we all need to calm
18 down a little bit.

19 MR. DEIXLER: Well, we're very calm here
12:10 20 except for the witness.

21 THE WITNESS: That's a false --

22 MR. BABBITT: I --

23 MR. DEIXLER: That's a false statement.

24 MR. BABBITT: Okay.

12:10 25 MR. DEIXLER: So I'd like to continue on

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12:10 1 in studying this declaration upon which the plaintiff
2 intends to rely in this motion.

3 Q. (BY MR. DEIXLER) We're on paragraph No. 4.

4 You've now told me everything that you've done from
12:11 5 the period February 2004 through December 2004 in the
6 nature of supervising or directing the office of
7 special affairs; is that correct?

8 A. Asked and answered.

9 Q. Would you answer the question, sir?

12:11 10 A. Asked and answered.

11 Q. Answer the question, please, sir.

12 A. Everything that I did as pursuant to the
13 inspector general between February of 2004 until
14 December of 2004 was standing up to David Miscavige,
12:11 15 period. Okay? And you keep -- keep mischaracterizing
16 it as, Talking to your wife was standing up to him? No.

17 I've testified what I did. I stood up to him. Never
18 been done up to then. Never been done since. Okay?

19 And that had --

12:11 20 MR. DEIXLER: Move to strike as
21 nonresponsive.

22 A. And that had a -- a earth-shaking tremor
23 effect.

24 MR. DEIXLER: Move to strike as
12:11 25 nonresponsive.

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12:12 1 Q. (BY MR. DEIXLER) During the period 1993
2 through 1995 you were not responsible for policing and
3 directing the office of special affairs; is that true?

4 A. I was on training during that period of time.

12:12 5 Q. So it is correct that you were not --

6 A. I don't --

7 Q. -- supervising, policing or directing the
8 office of special affairs from '93 to '95, true?

9 A. Except for some exceptions like I told you.

12:12 10 I've already testified to this.

11 Q. So this portion of your declaration where you
12 say from March of '87 until December 2004 is inaccurate;
13 would you agree with that?

14 A. No. I would not. It -- I would not. I've

12:12 15 already testified to this. I said there was a number of
16 exceptions while on the -- while I was on the ship,
17 including security matters and having matters of -- of
18 getting a person to confess on videotape and sign
19 affidavits. These were all office of special affair
12:12 20 types of activities and duties and inspector general
21 types of activities and duties, and that -- and it -- it
22 blended, and it evolved, and it morphed over that period
23 of time. So, no, you've mischaracterized the -- the
24 record again, Counselor.

12:13 25 Q. You were sailing in the Caribbean and the

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12:13 1 training that you were doing also included your
2 supervision of the office of special affairs; is that
3 correct?

4 A. No.

12:13 5 Q. Okay. Then let's move on.

6 You say your duties included the
7 administration of policies concerning monetary refunds;
8 do you see that?

9 A. I heard you.

12:13 10 Q. In your statement?

11 A. Uh-huh.

12 Q. Yeah. Tell me when you began becoming involved
13 in supervising monetary refunds demanded by Scientology
14 parishioners?

12:13 15 A. Eighty-two. Just like my declaration says.

16 Q. So in 1982 you began to administer refunds; not
17 in March of 1987?

18 A. Okay. What line and what paragraph are you
19 talking about now?

12:13 20 Q. I've been reading from paragraph No. 4 of
21 Exhibit No. 4.

22 A. I began administering church policies related
23 to monetary refunds in and around 1982, paragraph 4.

24 Q. Okay. So --

12:14 25 A. There's nothing inconsistent with that. Why

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12:14 1 are -- what -- you know, you're playing this -- this
2 game where you're going to beat down Marty Rathbun and
3 discredit him. It says it right in my declaration,
4 Bert. For Christ's sakes, please.

12:14 5 Q. Tell me, if you will, in 1982 what your
6 involvement was in policy regarding monetary refunds.

7 A. Paragraph 5, basically, I would -- had a -- I
8 had a -- a finger on the pulse from my position of
9 knowing when these backlogs of refunds -- which were
12:14 10 routine because the Church has always got this policy
by

11 Hubbard, income is holier than outgo and do everything
12 to prevent expense while -- while doing anything
13 necessary to get income. They were always second --
14 they always played second fiddle to pay refunds. They
12:15 15 had big accounts that would -- that would accumulate
16 when people made a refund request and sit and languish,
17 and you -- and you would wait for years for these people
18 to just give up and go away.

19 I had a finger on that and the statistics
12:15 20 of all of that and how those would affect litigation;
21 because there was a corollary where, you know, you would
22 get three or four hundred people, okay, \$300,000,
23 \$400,000, \$1 million in backlogged refunds that we're
24 withholding. Sometimes it would have a spill-over

12:15 25 effect and you would get people that would get very

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12:15 1 disaffected and they'd go on a witness list all of
2 sudden, and I would inform David Miscavige.

3 And David Miscavige, of course, who was
4 master of compartmentalization of information, he was
12:15 5 the hand that wouldn't let finance spend anything, while
6 he was directing me, at the same time, would all of a
7 sudden explode and tell finance, Pay all of the refunds,
8 and just pursuant to paragraph 5 that's how it was
9 administered. That was my role in it.

12:16 10 Q. So during what period of time period were you
11 doing that?

12 A. Pretty much '82 through whenever I left.

13 Q. Okay. So when you were author -- author of
14 services were you administering refunds?

12:16 15 A. I was doing what I just described.

16 Q. Were you administering refunds in '83?

17 A. Yes. I was doing exactly --

18 Q. Okay.

19 A. -- what I just described.

12:16 20 Q. And -- and how --

21 A. From '83, '82 all the way to the time I left,
22 this was a recurring pattern. I was the one person that
23 could tell him, Hey, look, this has -- this has gotten
24 to the point where it's completely out of control, and
12:16 25 all of a sudden, boom, he would answer, and checks
would

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12:16 1 get cut for one -- one-and-a-half million dollars,
2 \$2 million, hundreds of people all at once would --
3 would -- would go.

4 Q. As I understood it, you believe that

12:16 5 Mr. Hubbard's policy was that highly-publicized requests
6 would end in a refund, but requests for refunds that
7 were not publicized were left to languish. Is that your
8 view of what Mr. Hubbard's policy was?

9 A. No. It says, Founder, L. Ron Hubbard,

12:17 10 maintained a policy to refund moneys paid to the Church
11 by any dissatisfied parishioner who requested such
12 refund, period.

13 Q. And how does it go on in your draft of the
14 words you chose?

12:17 15 A. Highly-publicized requests for refunds
16 typically ended in a refund to the parishioner.
17 Requests for funds that were not so publicized were
18 typically left to languish to the very factor that I was
19 just telling you because of the policies in Scientology
12:17 20 that say, Don't ever pay out anything.

21 Q. Was that Mr. Hubbard's policy?

22 A. I mean, there is policy to that effect.

23 Q. Was that the policy you were administering?

24 A. No. As far -- I was -- I was at the beck and

12:17 25 call and at the mercy of David Miscavige. He was the

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12:17 1 guy that said those get paid or they don't get paid.

2 Q. So let me see if I can understand. It was

3 Mr. Hubbard's policy to pay requests for refunds that

4 were highly publicized and to not pay unpublicized

12:18 5 requests for refunds?

6 A. You know, he --

7 Q. Or was that your policy?

8 A. He -- he was a complex man and it's a complex

9 policy and we could argue this forever. But the

12:18 10 simplicity is, you know, if you're going to run a

11 bait-and-switch operation, you know, you either give

12 the -- if you're going to publicize the refund and

13 you're going to continue to tell people that that's what

14 sets you apart and that's tell -- tells you that your

12:18 15 technology is superior to everybody else, well, then

16 give the refund. Okay? And -- and that's -- you know,

17 that was essentially the policy and that was the --

18 the -- the way it was used.

19 There's a -- there's a policy letter

12:18 20 Dianetic registration where Hubbard requires in

21 boldfaced letters that they post this in the

22 organization.

23 Q. But -- but --

24 A. That -- that if you're dissatisfied you

12:18 25 promptly get a refund.

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12:18 1 There's policies by him that say the
2 second somebody associates with somebody like me
3 who's -- who's -- who's, quote/unquote, a suppressive
4 person, you must -- Okay? Not in the permissive may --
12:18 5 you must refund them promptly, quote/unquote, promptly.
6 Okay? So, you know, there's plenty of policy.
7 And then David Miscavige relied on that
8 and made -- heads rolled when the refunds started
9 creating backlog too long and gave problems; and the
12:19 10 reason he did is because he was using Hubbard policy
11 that said, Don't spend anything for anything, to not
12 spend money. So it -- it's a complex situation. See,
13 that's why you think you -- Okay. Go ahead.
14 MR. DEIXLER: Move to strike as
12:19 15 nonresponsive.
16 THE WITNESS: Wait a second. What do you
17 mean "nonresponsive"?
18 Q. (BY MR. DEIXLER) Mr. Rathbun, during the time
19 that you claim to have been involved in the
12:19 20 administration of refunds, was it your practice to
21 only refund publicized requests or was it your
22 practice to refund all requests or something in
23 between?
24 A. I told you what my practice was. I told you
12:20 25 exactly what I did.

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12:20 1 Q. Would you answer my question?

2 A. I did. I did answer your question. I told you
3 exactly what I did.

4 Q. Would you answer my question, sir?

12:20 5 A. I answered your question.

6 Q. Are you --

7 A. I told -- I prescribed to you precisely how I
8 was involved in refunds; and that's what I did.

9 MR. BABBITT: Let's move on. You did ask

12:20 10 that question. He did answer it. Let's get on to the
11 next one, please.

12 Q. (BY MR. DEIXLER) Was there ever a refund

13 which you considered, as you administered the refund

14 policy, that you decided upon your own without

12:20 15 reference to something Mr. Miscavige said to you?

16 A. There may have been a period where I had enough

17 power in '90 -- between '97 and '90 -- or '98 and 2004

18 when I was inspector general, an inspector general for

19 ethics, where I may have caused the international

12:20 20 management guys to pay off lumps of refunds without

21 having to take it to Miscavige.

22 Q. Okay. Tell me who exactly you gave such a

23 directive to in the '98 to 2004 period.

24 A. Either Marc Yager, Mark Ingber or Wendell

12:21 25 Reynolds. Those are the three guys that were all --

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12:21 1 between that period of '82 to the time I left, it was
2 one of those -- one or more of those three always had to
3 give the order to get the finance people to actually cut
4 the checks.

12:21 5 Q. What did --

6 A. So it was one of those three and probably all
7 three of them at different times. Although, Wendell
8 probably not. Wendell was pretty whack.

9 Q. What was the criterion that you employed to
12:21 10 determine whether a refund would or would not be given
11 during this period when you had --

12 A. Highly publicized --

13 Q. When you -- when you had all of the authority?

14 A. I re- -- I -- I'll -- I'll quote my affidavit.

12:21 15 Highly publicize re- -- publicized requests for refunds
16 typically ended in a refund to the parishioner.

17 Requests for refunds that were not so publicized were
18 typically left to languish.

19 Q. So let me see if I understand what you're
12:22 20 saying. During the time that you weren't forced to take
21 these directives directly from Mr. Miscavige, that is in
22 the '98 to 2004 period, it was your practice to refund
23 highly-publicized requests but allow to languish
24 unpublicized ones; is that correct?

12:22 25 A. I'm saying I may have. I -- I don't even --

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12:22 1 can't even give you an instance, but I said I may have.

2 Q. You may --

3 A. But the policy was -- was -- it was in -- if

4 they -- if I went to Marc Yager, Mark Ingber or -- or

12:22 5 Wendell Reynolds, who -- who -- who does that, if

6 there's not -- they're not doing it because I say to.

7 They're doing it because it's going to flap with COB

8 Miscavige. And so, in essence, it really is at his

9 order. They're not doing it at my order. They're doing

12:22 10 it -- I'm informing them. I'm giving them a good,

11 friendly heads up.

12 Do you know if these people file a suit,

13 Marc -- I would say, for example, to Marc Yager, Do you

14 know what's going to happen if these people file suit?

12:23 15 They're going to name Dave. Okay? And if they name

16 Dave Miscavige, you know your life is going to be a

17 living hell for the next ten years, and that's what I

18 would say. And Marc Yager would say, Okay. Good.

19 We're going to pay off these blocks that are refunds.

12:23 20 Because there's plenty of Hubbard stuff

21 where he goes and laments about all of our problems.

22 All of the problems externally in Scientology can be

23 traced to the refund policy. When I'm in charge refunds

24 are liberal, fast and prompt. This is L. Ron Hubbard.

12:23 25 That's the essence of his policy. And that's what I'm

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12:23 1 talking about when I talk about his policy. And --
2 and -- and so there you go.

3 Q. Yeah.

4 A. So --

12:23 5 Q. But we were talking about your practice in '98
6 to 2004 --

7 A. Right.

8 Q. -- when you explained to us you had this power,
9 and I'm trying to determine whether it was your practice
12:23 10 to only give refunds to highly-publicized --

11 A. Threats.

12 Q. -- people.

13 A. They're threats. It doesn't --

14 Q. Or -- or --

12:23 15 A. -- necessarily have to be publicized, but they
16 could be threats.

17 Q. Okay. So your --

18 A. I could know that it's a threat. I could know
19 through Ben Shaw and his intelligence network who sends
12:24 20 infiltrators in amongst former Scientologists and
21 independent Scientologists and know everything that
22 happens and what threats are coming up. That's his job.
23 They have a whole network that does that. They would
24 report to me. And I find out that some guy's coming

12:24 25 along who's going to -- some lawyer's going to come

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12:24 1 along who's going to start filing refund requests, I get
2 down to finance and I get the refunds paid.

3 Q. I see. And so that was your practice from '98
4 to 2004; whatever the policy may have been that was your
12:24 5 practice, correct?

6 A. The practice was set in stone in the early '80s
7 by Miscavige and remained that way all the way through
8 to this --

9 Q. I see.

12:24 10 A. -- to the end.

11 Q. And so you didn't make any particular attempt
12 to direct, for example, Mr. Yager or Wendell or anybody
13 else to do something that you thought was different from
14 what you believe the established practice to be,
12:24 15 correct?

16 A. Pretty much.

17 Q. Yeah. Notwithstanding the fact that you had
18 all of this power from '98 to 2004?

19 A. I don't know about the -- all of this power. I
12:24 20 said, I may have had the ability to go directly to
them;

21 and then I subsequently explained to you that it was
22 always using the fact of David Miscavige's standing
23 orders and policies. So it wasn't really -- I really
24 didn't have power. I had the information. I would say,
12:25 25 If you don't do this -- you know, I'm looking out for

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12:25 1 the best interest of the Church. I'm trying to --
2 Q. Sure.

3 A. -- prevent lawsuits. I'm trying to prevent a
4 run on the bank. I'm trying to -- you know, I'm trying
12:25 5 to prevent bad publicity.

6 Q. Did you think you were acting honestly in
7 connection with the work that you were doing here
8 regarding refunds?

9 A. I always tried to.

12:25 10 Q. Okay. So this --

11 A. I always tried to in spite of this. In spite
12 of the -- the heavy doses of mind control and -- and --
13 and -- and cult devotion that are required and exacted
14 through -- through penalties and rewards, I
12:25 15 really try -- I did really I tried to.

16 Q. Mr. Miscavige was controlling your mind?

17 A. I didn't say that.

18 Q. Who was controlling your mind?

19 A. Scientology. Scientology. Scientology is very
12:25 20 adept at controlling people.

21 One of the first things they do is they
22 teach you to -- they put you through a number of focus
23 drills that get you to the position where you agree to
24 comfortably be controlled and --

12:26 25 Q. Over what period of time do you think your mind

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12:26 1 was being controlled, sir?

2 A. And I'm not finished. I'm not finished with my
3 answer.

4 Q. Oh, I thought you were finished. Please

12:26 5 complete your answer. I'll move to strike that -- rest
6 of it as nonresponsive. Then you'll answer my question.

7 A. I've -- you've -- You lost me now. You're
8 striking the answer that I gave you?

9 Q. Please continue. Finish your answer.

12:26 10 A. What did you move to strike?

11 Q. Please finish your answer.

12 A. I'm -- I'm lost, Bert. I don't know what's
13 going on.

14 Q. Okay. Let me give you a fresh question.

12:26 15 During what period of time do you think
16 your mind was controlled?

17 A. Oh, your mind is controlled from the moment you
18 get in Scientology until -- till the day you finally
19 decide you understand the mechanisms that -- that are
12:26 20 done there.

21 Q. So sometime -- you began Scientology in
22 about -- in the late '70s?

23 A. Yeah. I was trying to explain this to you, but
24 you cut me off.

12:26 25 Q. So from the late '70s until 2004 you believe

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12:26 1 your mind was being controlled by the religion --

2 A. To some --

3 Q. -- or some person?

4 A. See, that's part of -- that's part of what

12:26 5 Scientology is. It's all about control. And then I --

6 and you cut me off when I was explaining to you, one of

7 the first things you learn is to comfortably accept

8 control. And the longer you're in, you get certain

9 benefits from these exercises that help you to focus

12:27 10 more. But part of it is twofold: One is accepting --

11 being accepting of control; and the other part of it is,

12 is, adopting that mores that I told you about -- that if

13 it's good for Scientology, it's good; and if it's bad

14 for Scientology, it's evil.

12:27 15 And those -- and through those two

16 functions that control becomes deeper and deeper and

17 deeper, and so it's -- you know, I don't know what the

18 exact point is where you're under control, but it's

19 pretty soon; it's pretty early on in the -- in the trip

12:27 20 that there's a tremendous amount of control exerted on
a

21 Scientologist.

22 Q. Your mind was being controlled from the time

23 you began until the time you left; that's your

24 position --

12:27 25 A. Yeah. To one --

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12:27 1 Q. -- correct?

2 A. To one extent or another.

3 Q. And now your mind is not controlled?

4 A. No.

12:27 5 Q. Now, you're a free, independent thinker,
6 correct?

7 A. Pretty much.

8 Q. Okay. Then let's continue on with our
9 examination of your declaration if we can.

12:28 10 You said, Regarding refunds I worked
11 directly with David Miscavige to formulate the
12 Enrollment Application Agreement --

13 A. Uh-huh.

14 Q. -- do you see that?

12:28 15 A. Uh-huh.

16 Q. So let's -- let's focus on when you first
17 started to work with Mr. Miscavige to formulate the
18 Enrollment Application Agreement. When was the first
19 time you worked with him?

12:28 20 A. Probably sometime between -- in the mid '80s.
21 Over a --

22 Q. 1985?

23 A. Yeah. I'm thinking '85 during the
24 Kristofferson case. We were up doing this trial and, of
12:28 25 course, these waivers were, you know -- and we had gone

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12:28 1 through this trial, yeah.

2 Q. Okay.

3 A. And so -- and so he -- he was saying we need to
4 get these things, so the -- and, of course, it was a
12:28 5 jury trial and these -- these waivers and Enrollment
6 Agreements were just being laughed out of court. And
7 there was a \$39 million judgment for having defrauded
8 her and emotionally disturbed her, and -- and so he was
9 livid at that time about getting Enrollment Agreements
12:29 10 that were actually enforceable.

11 Q. Okay. So where were you at the time you
12 discussed that with Mr. Miscavige for the very first
13 time?

14 A. I really don't know.

12:29 15 Q. Okay.

16 A. It could have been Los Angeles; it could have
17 been Portland.

18 Q. Okay. Portland. That -- that case was
19 overturned by the Judge, wasn't it?

12:29 20 A. Yes.

21 Q. Okay. So sometime in '85 or '86 you had a
22 conversation with Mr. Miscavige about Enrollment
23 Agreements; and tell me, if you will, everything that he
24 said to you and you to him on the subject matter.

12:29 25 A. I don't remember a specific instance. I -- I

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12:29 1 know that we -- that he had ordered that these things
2 get straightened out, and I worked with the OSA people
3 to get it going.

4 And again, it was sort of, you know, I --

12:29 5 again, I was in a position where, you know, I'm --
6 I'm -- I'm handling the -- the more sensitive things in
7 Scientology. The more establishment corporate waivers,
8 that stuff is getting handled sort of on a different
9 line, but I'm being consulted on it and I'm --

12:30 10 Q. Sure.

11 A. -- checking the final product.

12 Q. Sure.

13 A. So --

14 Q. Sure.

12:30 15 A. So, you know, that -- that started then. I
16 don't know exactly when it was. It was a major concern
17 of his in Portland. It was a major concern of his in
18 the Wollersheim case. You know, you said the Portland
19 case got overturned. The Wollersheim case came up six
12:30 20 months after and there was a \$30 million judgment.

21 Q. Uh-huh.

22 A. So again, it was a big -- a big issue --

23 Q. So -- so let's --

24 A. -- with David Miscavige.

12:30 25 Q. Let -- let's use that focus that you've

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12:30 1 described previously to respond to my questions.

2 I'm focused now, and I would like you to

3 be focused as well, on the question of what work you

4 were told to do by Mr. Miscavige in connection with

12:30 5 these Enrollment Agreement forms in 1985 or '86. You've

6 told me he used the phrase "straightened out." What --

7 what were you directed to do, sir?

8 A. To oversee I guess that OSA comes up with

9 Enrollment Agreements that -- that are enforceable.

12:31 10 Q. That are enforceable?

11 A. Yeah.

12 Q. Okay. And so tell me what you did in '85 or

13 '86. Do you -- do you remember whether the -- the form

14 that you're talking about was completed in '85 or '86?

12:31 15 A. I don't know. I think probably in the late

16 '80s there was -- there was new forms.

17 Q. Okay. In the late --

18 A. And probably a number of them. I think they --

19 every two years or so they've been revised.

12:31 20 Q. And so --

21 A. I think true -- truly, Bert, if you went back

22 and they looked, I think it's like every two years they

23 get revised.

24 Q. And -- and so focusing, if you will, on what

12:31 25 you did in this period, in the late '80s now --

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12:31 1 A. Uh-huh.

2 Q. -- I guess we're up to with regard to the
3 enrollment forms, would you tell us what you did?

4 A. I related the order to OSA and then maybe saw
12:31 5 some submissions go back and forth, you know,
6 cross-checked them.

7 See, I was at Author Services all the way
8 up through '87. We weren't allowed to be on the routing
9 because we were supposed to be just -- we're not
12:32 10 supposed to be running the Church, but we were. And so
11 I would cross-check a lot of these things, you know, but
12 I would -- you wouldn't see my signature on them and
13 they wouldn't have my name or my -- the name of my post
14 on the routings. So I would have cross-checked them.

12:32 15 Q. Did -- did you do any drafting of the
16 enrollment forms?

17 A. I don't know. I don't think so.

18 Q. Give any --

19 A. I may have --

12:32 20 Q. -- instruction?

21 A. I may have changed a word or two or told guys,
22 Hey, if you put this in the -- take it out of the
23 subjunctive and put it into the imperative, you know,
24 it's probably going to be more binding; because I was
12:32 25 learning a lot about litigation then.

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12:32 1 Q. Uh-huh. Do you -- do you remember instructing
2 anybody to remove a word from the subjunctive and put
3 into the imperative or is this just --

4 A. Just my --

12:32 5 Q. -- any --

6 A. -- my general recollection of the type of thing
7 that I might have done.

8 Q. Lawyers were drafting these documents; is that
9 right?

12:32 10 A. Doubtful.

11 Q. Doubtful?

12 A. Very doubtful, yeah.

13 Q. If they were, you weren't involved with them?

14 A. I told you. I told you my involvement.

12:32 15 You know, I -- I saw John Peterson who was
16 the coordinating attorney. I dealt with him and,
17 quote/unquote, was his chief sort of handler from '82
18 until '84. And then from '84, you know, instead of
19 every day I'd see him, I'd see him every other day
12:33 20 because I'd always go by OSA on my rounds. And we were
21 presenting to the world that we had nothing to do with
22 OSA, but I was in there running stuff down to seeing
23 their -- their coordinating attorney, and he would
24 have -- You know, the main order of business would be

12:33 25 the -- the pressing litigation intelligence situations

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12:33 1 in front of us, but he would have things like, Hey, I
2 got this refund thing. So I might look at it, you know,
3 and say, How is it? Is it okay with you, you know,
4 because is -- is it going to be enforceable? Well, it's
12:33 5 enforceable as -- you know, how lawyers are. It's as
6 enforceable as it can be. Some -- you know, some vague
7 answer. Then, of course, when you're -- internally
8 you're getting the -- it's all in the absolute. With
9 the -- with the lawyers, it's all in the subjunctive or
12:33 10 the --

11 Q. Yeah. So do you remember --

12 A. -- positive.

13 Q. Do you remember having a conversation with

14 Mr. Peterson or any other lawyer about the

12:33 15 enforceability of the Enrollment Agreement and, in
16 particular, the arbitration clause?

17 A. I don't think there was an arbitration clause
18 back then.

19 Q. Okay. So your memory is that as of 1988, 1989,

12:34 20 the late '80s, there were no enrollment forms that had
21 arbitration clauses, correct?

22 A. I don't think so.

23 Q. Okay. When is the first time you remember

24 having a conversation with anybody at the Church of

12:34 25 Scientology about the introduction of an arbitration

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12:34 1 clause which, as you understood it, had not previously
2 existed?

3 A. Well, I don't know that it pre- -- previously
4 had not existed. You're jumping -- I told you I didn't
12:34 5 think in the '80s there was an arbitration clause.
6 I think it became vogue in litigation and
7 corporate world in the '90s to start putting all of that
8 arbitration business in there and I think that we kind
9 of went with that flow. That's the impression I get.

12:34 10 But I've communicated to you the first and only times,
11 that I recall, where I was present where communications
12 about the arbitration clause were discussed. We've
13 already gone through that in some detail that my -- my
14 time between '98 and 2002 --

12:35 15 Q. Right. That was Mr. Lindstein.

16 A. -- in Clearwater and maybe sometimes at Int --
17 at the Int base, and maybe sometimes even in LA; but it
18 was mainly Clearwater because it -- because it all
19 stemmed around the McPherson case.

12:35 20 And again, arbitration clause was the
21 second fiddle. That wasn't even the important thing.
22 If you go to the Enrollment Agreement you'll see where
23 the person agrees never to go to a psychiatrist. And
24 even if he has a psychotic break, he will go into the
12:35 25 custody of a Scientology Church. That was the one that

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12:35 1 Miscavige was requiring. That was the important one.

2 The other one was a side issue.

3 Q. Yeah. I'm focused on -- on the arbitration

4 provision.

12:35 5 Would it be fair to say, sir, that prior

6 to 1998 you have no memory, whatever, of having a

7 discussion with anybody affiliated with the Church of

8 Scientology about arbitration provisions in agreements

9 with the Church?

12:35 10 A. I don't recall any.

11 Q. Okay. And what you do remember about such

12 conversations between 1998 and 2002 you've told us

13 everything you recall; is that also true?

14 A. I seem to recall as part of that, and I don't

12:36 15 think I specifically said it because we kind of go off

16 on these tangents, but -- but -- you blame that on me.

17 I blame that on you. But -- but, nonetheless, I seem to

18 recall Bill Drescher -- hearing Bill Drescher protest

19 that this is just not acceptable.

12:36 20 You cannot -- you know, you're --

21 you're -- you are using the arbitration -- you're --

22 you're invoking the privilege that a corporation takes

23 advantage of to force a person to stay out of the

24 courts. Right? You can't do that when you rig the

12:36 25 process where you totally control the arbitration. It

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12:36 1 just can't happen.

2 Q. Uh-huh.

3 A. And -- and I -- and I -- I'm just not sure if

4 Miscavige was in the room, but I do recall Bill, like,

12:36 5 really exasperated explaining this to Rinder.

6 And whether he even knew I was on the

7 phone or not, I don't -- you know, because Rinder

8 had a -- like I said, we'd have a conference table just

9 like this (indicating) and I'd be on one end with a

12:37 10 computer make -- and we had a conference phone right in

11 the middle and sometimes we'd just have it on the

12 conference call.

13 Q. So let me see if I -- let me see if I can fully

14 appreciate what you're saying. Mr. Drescher was a

12:37 15 lawyer, correct?

16 A. Yes.

17 Q. And Mr. Drescher was giving advice to

18 Mr. Rinder who was a senior executive in the Church?

19 A. He was --

12:37 20 Q. Is that correct?

21 A. No.

22 Q. He was not a senior executive in the Church?

23 A. No. He wasn't a lawyer advising a senior

24 executive of the Church.

12:37 25 Q. What --

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12:37 1 A. He was pro- --

2 Q. What --

3 A. He was protesting an order that Drescher had to
4 sign off on a -- on this absurd arbitration clause where
12:37 5 the arbitration is controlled by one party, and
6 that's -- he was -- he was objecting. He wasn't
7 advising. He was objecting. We already knew that it --
8 we had already been through hearing all of this. That
9 this was -- You can't do that.

12:37 10 Q. When was it?

11 A. I mean, I knew enough about the law to say that
12 you couldn't do that.

13 Q. When -- when was this conversation with
14 Mr. Drescher; whether he was advising or criticizing the
12:38 15 provision, when was this?

16 A. I didn't say advising or criticizing. I said
17 he was objecting. He was objecting to this pressure of
18 having to sign off on something that he thought was not
19 right.

12:38 20 Q. When was that?

21 A. Not enforceable.

22 Q. When was that?

23 A. It was between '98 and 2004.

24 Q. Okay. Two thousand --

12:38 25 A. Two thousand and two.

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12:38 1 Q. Okay.

2 A. Ninety-eight and 2002.

3 Q. So sometime -- you can't fix it with any

4 greater specificity; you have no document that reflects

12:38 5 that, correct?

6 A. Oh, no. I told you I have no documents from

7 the Church.

8 Q. And you just overheard the conversation, you

9 weren't a participant in it; is that correct?

12:38 10 A. Like I said, I may have been a participant, but

11 I -- but it was really between him and Rinder.

12 Q. Okay. Anything else now after 2002 prior to

13 your departure either in February of 2004 or through

14 December of 2004 in which you had any conversation about

12:38 15 the arbitration provision contained in the Enrollment

16 Agreement or any other document --

17 A. Between 2000 --

18 Q. -- in the Church?

19 A. Between February of 2004 and the end of 2004?

12:39 20 Q. No. Between -- between 2002 and February 2004.

21 Let's break it into smaller pieces. Do you remember any

22 other conversation you had on the topic?

23 A. I don't remember a specific one. I do get

24 the -- the feeling that I may have swung by OSA. I

12:39 25 mean, I was pretty much full time doing things for

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12:39 1 Miscavige with Isaac Hayes and Tom Cruise, all of these
2 celebrities, and -- and -- and stuff on PR in

3 Clearwater, and some -- were tons of technical things,

4 and so -- but I -- but I did check in from time to time

12:39 5 at OSA and I -- you know, I may have heard Rinder, you

6 know, going through this. He may have asked me a

7 question. I just don't recall any specific ones.

8 Q. Okay. And how about now, we're up to February

9 of -- of 2004. From February of 2004 through December

12:39 10 of 2004, can you recall any conversation about

11 arbitration provisions in any document relating to the

12 Church of Scientology?

13 A. No.

14 Q. Okay. You've now told us everything that you

12:40 15 know about conversations pertaining to arbitration

16 clauses in documents pertaining to the Church of

17 Scientology; is that true, sir?

18 A. About the arb- -- arbitration clause?

19 Q. Yes, sir.

12:40 20 A. I think so.

21 Q. Okay. Why don't we take a brief break for

22 lunch; and we will come back in about a half hour or so.

23 Will that be enough time for you to --

24 A. That's plenty for me.

12:40 25 Q. -- consume something?

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12:40 1 A. I really want to get out of here, so...

2 Q. Okay. So we'll try for a half hour.

3 MR. DEIXLER: That work for you, Madam

4 Reporter? Yes? Okay. So let's come back in about a

12:40 5 half an hour.

6 Mr. Babbitt, 30 minutes or so. Okay?

7 MR. BABBITT: Yeah. Hang on just a

8 minute. Mr. Rathbun, how long are you available?

9 Because as I've said, I -- I've got a few --

12:40 10 THE WITNESS: I mean, I'm available. I

11 just -- I -- you know, this is all --

12 MR. BABBITT: Okay.

13 THE WITNESS: This all really insane. It

14 took me --

12:40 15 MR. BABBITT: So we're taking a break and

16 then --

17 MR. DEIXLER: Okay.

18 MR. BABBITT: -- I get shut out, you know,

19 at the end. That's fine. Thirty minutes. That's fine.

12:40 20 MR. DEIXLER: Thanks.

21 THE VIDEOGRAPHER: The time is 12:41,

22 we're off the record.

23 (Short break taken.)

24 THE VIDEOGRAPHER: The time is 1:18, we

13:18 25 are back on the record.

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13:18 1 Q. (BY MR. DEIXLER) During the break, sir, did
2 you speak with Mr. Babbitt or anybody else regarding
3 this deposition?

4 A. My wife.

13:18 5 Q. Okay. Let's go back and continue our study of
6 Exhibit No'd. 4, your declaration.

7 Earlier this morning we were discussing
8 every involvement you had recalled regarding the
9 drafting of the arbitration clause; do you remember our
13:19 10 review of that material?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yeah.

14 Q. Has anything else dawned upon you since we
13:19 15 broke for lunch and you spoke to your wife and -- any
16 other instances that you can now recall you were
17 involved with the arbitration clause other than what
18 you've testified to, of course?

19 A. No.

13:19 20 Q. Okay. So let's go further down into paragraph
21 No'd. 7. The arbitration clause contained in the
22 Enrollment Agreement was specifically included by staff
23 and counsel in compliance with David Miscavige's order
24 that we make it as difficult as possible for people to
13:20 25 obtain refunds while also acting as if we did not
cancel

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13:20 1 or undermine L. Ron Hubbard's original refund policy;
2 you see that?

3 A. Yes.

4 Q. Now, in paragraph 5 you describe L. Ron
13:20 5 Hubbard's refund policy; am I correct?

6 A. Yes.

7 Q. And there you described the refund policy as
8 taking care of highly-publicized requests for refunds,
9 and then requests that were not so publicized were left
13:20 10 to languish until requests accumulated for people -- or
11 people organized; do you see that?

12 A. Again, you have mischaracterized my testimony.

13 You tried to collapse those two sentences and I very
14 explicitly said "period" after refund.

13:20 15 Q. So -- so the paragraph 5 reference to
16 highly-publicized requests, there is no other reference
17 to anyone other than Mr. Hubbard? To whom were you
18 referring in paragraph 5?

19 A. In the Church.

13:21 20 Q. Okay. And so what you meant to say in
21 paragraph 5 was that this was Mr. Hubbard's policy then
22 is anybody who wanted money back could get it, right?

23 A. Hubbard's policy was to refund moneys paid by
24 the Church by any dissatisfied parishioner who requested
13:21 25 such refund.

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13:21 1 Q. Okay.

2 A. That's what I said.

3 Q. Yeah. And that was always his policy, correct?

4 A. As far as I know.

13:21 5 Q. Maybe I misunderstood. But I thought earlier
6 today you said that there was a scripture which would be
7 clear that Mr. Hubbard didn't want to have money going
8 out, and that the focus was on the receipt of revenues
9 rather than the pay -- payment back of such things.

13:21 10 A. First of all, I made no reference to scripture.
11 I made a reference to corporate policy. And the
12 corporate policy is to -- does tend to create a -- a
13 contradiction there, a bind.

14 Q. That was under Mr. Hubbard? Under --

13:22 15 A. I'm not --

16 Q. Under the teachings --

17 A. Yeah.

18 Q. -- of Mr. Hubbard?

19 A. I wasn't talking about under anybody. I was
13:22 20 telling you about what the policy says. I was referring
21 to policies.

22 Q. And those were policies created by Mr. Hubbard?

23 A. The policies that I was refer -- that I was
24 referring to, yes.

13:22 25 Q. Okay. So I would like to have you reconcile

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13:22 1 then what you've just described as Mr. Hubbard's policy
2 with what you've identified in paragraph 5 as
3 Mr. Hubbard's policy regarding refund moneys. How do
4 you reconcile those two if --

13:22 5 A. I don't know what the reconcile is. I mean,
6 that's the way of Scientology. Like I told you, there's
7 55 million words, allegedly, and for everything that I
8 can tell you that you want to assert about what L. Ron
9 Hubbard says, I can find you something to refute that.

13:22 10 So --

11 Q. You --

12 A. So I don't know what you're -- what you're
13 trying to reconcile.

14 Q. I guess my focus was --

13:22 15 A. You want me to -- you want me to reconcile
16 L. Ron Hubbard?

17 Q. No. I was actually hoping you would reconcile
18 your testimony so that's where I'm going to keep my
19 focus.

13:23 20 A. Well, I don't think that -- I don't think
21 there's an inconsistency. So I don't see it, so I don't
22 know what there is to reconcile.

23 Q. Okay. So on the one hand you describe
24 Mr. Hubbard's policy generally as not wanting to pay out
13:23 25 money.

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13:23 1 A. Yes.

2 Q. Then --

3 A. Generally.

4 Q. Then you have identified this as an example

13:23 5 where you say it was his policy to pay out money. How

6 do you -- how do you square those two?

7 A. I don't.

8 Q. Okay.

9 A. The -- and it's the -- that's the cognitive

13:23 10 dissidence that goes on in the Church of Scientology.

11 Q. Did you feel that cognitive dissidence at the

12 time that --

13 A. All the time.

14 Q. -- you were involved in administering this --

13:23 15 these policies?

16 A. All the time.

17 Q. You did?

18 A. From the day you walk in there till the day you

19 leave, there's this cognitive dissidence that's set up.

13:23 20 It's like he says, you know, the first

21 policy is to be friendly to the environment and the

22 people in it, and God Bless -- you know, the greatest

23 thing you can do is to forgive; and he sets up an

24 intelligence network with file cabinets filled with

13:23 25 policies about destroying people by any means
necessary.

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13:24 1 You want me reconcile that?

2 Q. Yeah. How did you reconcile that where --

3 A. You don't.

4 Q. -- when --

13:24 5 A. It's --

6 Q. -- when --

7 A. It's the definition of cognitive dissidence.

8 Q. When --

9 A. You're holding two mutually exclusive

13:24 10 contradictory ideas counterpoised at the same time and

11 that's -- that's really what Scientology creates.

12 Q. Yeah.

13 A. It creates -- creates --

14 Q. I understand.

13:24 15 A. It creates a cognitive dissidence.

16 Q. Yeah. But I was focused more on your sworn

17 testimony in this case --

18 A. Uh-huh.

19 Q. -- as contained in your declaration where you

13:24 20 identify Mr. Hubbard's policy as being one thing.

21 A. Well, that's the first thing I learned in

22 Scientology --

23 Q. And --

24 A. -- was to -- was to -- that you get your money

13:24 25 back if you are dissatisfied.

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13:24 1 And he lectures on and on and on and
2 you're -- you're listening to all of this stuff. It's
3 coming from the -- the -- this source (the oracle) that
4 that proves Scientology is greater than psychiatry and
13:24 5 religion, which he -- he says -- talks about in the
6 disjunctive religion. He talks about in this
7 disjunctive, disjunctive from Scientology.
8 And so you -- you kept trying to talk to
9 me about central -- the central policy. This was a
13:25 10 central policy: If you're dissatisfied, you get your
11 money back.

12 Q. How do you reconcile what you've just said was
13 a central policy with what you have previously described
14 as Mr. Hubbard's policy to not return money? How --

13:25 15 A. It wasn't --

16 Q. How --

17 A. It wasn't not to return money. I never said
18 that. You're -- you're altering my testimony. I said
19 there was a very hard line of policy about not spending,
13:25 20 deduct -- disbursements, spending. Hell on
21 disbursements and spending.
22 I mean, he had a whole system on how to
23 put people off for months and months and months and not
24 pay people. He actually advises the financial
13:25 25 department to not pay people. Even after they threaten

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13:25 1 suit, don't pay them, to keep your bills down and keep
2 your disbursements down. It's a -- it's a general
3 thing, not -- not necessarily particularly a refund.
4 All disbursements including, but not limited to,
13:26 5 refunds, I suppose.

6 Q. Okay. That --

7 A. It's just money out.

8 Q. That's really what I was focused on.

9 If his policy was to restrict

13:26 10 disbursements --

11 A. Uh-huh.

12 Q. -- you've identified in paragraph 5 that his
13 policy was to simply refund money. Would it be correct
14 to say that it was his policy to refund moneys, but
13:26 15 typically he would have the refund go to
16 highly-publicized requests and less-publicized or
17 unpublicized requests he wouldn't honor under the
18 policy? Is that --

19 A. I really wouldn't know. Because all of my
13:26 20 experience on refunds at Miscavige was the exclusive
21 line to L. Ron Hubbard. So I'm talking about in set --
22 in sentence 2 of paragraph 5, I'm laying out what the
23 Hubbard policies is over and over and over stated.

24 Sentence 3, I'm telling you what the actual operating
13:27 25 procedure policy was during all the times that I was

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13:27 1 there when it -- when ultimately Miscavige was the only
2 person I saw who was making the final decisions.

3 Q. Okay. And so --

4 A. He was the guy that was -- he was the guy that
13:27 5 was over finance and he was over legal and he played one
6 against the other. And I'm telling you, he could grab
7 policy to -- to, you know, justify -- justify it all.

8 Q. So from '82 to 2004 that was continuously the
9 policy; that is, to give refunds typically for
13:27 10 highly-publicized requests but not give refunds where
11 they were less publicized; is that the continuing
12 policy?

13 A. Pretty much. And again, I -- I -- I added to
14 that in our test- -- my testimony this morning, which
13:27 15 was not just publicity. It was also threat.

16 Q. Right.

17 A. Potential threat.

18 Q. Right. And that was the policy during the time
19 you were administering these policies, correct?

13:28 20 A. Yes.

21 Q. Okay.

22 A. As a matter of fact, there's tons of Hubbard on
23 that subject too. All attacks are due to people
24 screwing around with the refund policy. When I'm in
13:28 25 charge, they always get dished out now, immediately,

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13:28 1 promptly.

2 Q. And so --

3 A. And so --

4 Q. I'm sorry.

13:28 5 A. And so I'm just telling you there's a ton of
6 policy --

7 Q. Sure.

8 A. -- on that --

9 Q. Sure.

13:28 10 A. -- point too.

11 Q. Sure. And so during the time from '82 to 2004
12 with some interruptions as --

13 A. Uh-huh.

14 Q. -- you administered these refund, quote,
13:28 15 policies --

16 A. Uh-huh.

17 Q. -- you were administering it in the fashion,
18 which is described in paragraph 5; that is,
19 highly-publicized requests were refunded to the
13:28 20 parishioner and unpublicized or unthreatened were not;
21 that was your -- that was your execution --

22 A. Basically --

23 Q. -- of policy?

24 A. -- in the 22 years that I was sort of involved
13:28 25 in all of that, that was basically the policy.

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13:28 1 Q. Okay.

2 A. I mean, I'm just summing it up.

3 Q. And -- and did you think that was unethical or
4 unjust?

13:28 5 A. Yes.

6 Q. Okay. And nevertheless you did it?

7 A. Right. Because it was perceived to be the
8 greatest good for Scientology.

9 Q. Okay. So you --

13:29 10 A. Because people once they're out of Scientology
11 they have no rights under the fair game policy.

12 Q. And -- and the --

13 A. They're non- -- non-people.

14 Just like you wouldn't talk to me during

13:29 15 the break. You'll only talk to me on the record.

16 That's how you treat the -- that's how you treat the guy
17 who's fair game. He's a non-person.

18 Q. So -- so the fair game policy continues in
19 effect and always has from the time you were there

13:29 20 through and including today?

21 A. Yes.

22 Q. I see. Okay. And you've never said anything
23 to the contrary, have you?

24 A. Oh, yeah. Absolutely.

13:29 25 Q. Okay. And -- and those were lies then when

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13:29 1 said to the contrary?

2 MR. BABBITT: We're kind of reploting old

3 ground. You've asked those questions before, sir.

4 THE WITNESS: Thank you.

13:29 5 Q. (BY MR. DEIXLER) Please answer the question.

6 A. I've already answered it.

7 Q. I'm sorry. You're going to have to answer it

8 again.

9 A. You're going to have to ask the question again.

13:29 10 Q. Okay.

11 MR. DEIXLER: Would you ask --

12 A. Your questions are just insane.

13 MR. DEIXLER: Would you -- would you read

14 the question to the witness?

13:29 15 Q. (BY MR. DEIXLER) And I'd appreciate an

16 answer. Thank you.

17 (Requested portion read.)

18 A. Correct.

19 Q. (BY MR. DEIXLER) Okay. And your testimony,

13:30 20 if any, to the contrary, that is, that there was no

21 fair game policy would be false, correct?

22 A. It was word games. It was dishonest word games

23 per societal standards. It was absolutely ethical

24 within Scientology.

13:30 25 Q. Well, but those words --

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13:30 1 A. It was -- it was absolutely ethical. And as
2 L. Ron Hubbard says, The truth is the truth to you, and
3 then you just work it up in your mind that that's the
4 real truth and so you're saying the truth.

13:30 5 And so, yeah, you know, in -- in the
6 context of that bubble, it's ethical. In the context of
7 the society at large, it's very unethical --

8 Q. Okay.

9 A. -- and -- and dishonest.

13:30 10 Q. So when you were making those statements were
11 you thinking they were dishonest or were you thinking
12 that it was ethical?

13 A. You were thinking it was ethical.

14 Q. You did?

13:30 15 A. Yeah.

16 Q. And you always did because you --

17 A. No, no. Not always. You said then. You said
18 then when I made the statements and I'm answering the
19 question. And now you're trying to make that my entire
13:31 20 life. People evolve, sir.

21 Q. I see. When did you evolve to understand that
22 the statements that you had made in sworn declarations
23 to courts were false?

24 A. When you guys tried to use them against me.

13:31 25 Q. When was that?

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13:31 1 A. Probably in '09.

2 Q. Okay. So from 1982 through 2009 it never
3 crossed your mind that statements you had made in court
4 filings were false?

13:31 5 A. No. I didn't say that.

6 Q. Okay. When did it first cross your mind that
7 you were making -- you had made false statements to
8 courts?

9 A. Probably in 1989 during the Yanny trial. We
13:31 10 were suing a lawyer named Joe Yanny, and Warren McShane
11 was being cross-examined and -- and was trying to go
12 through this whole thing about this whole word game --
13 game that we're playing today, about it's really
14 canceled and Hubbard canceled it, and then it was being
13:32 15 pointed out by his examiner that Hubbard, when he
16 canceled fair game, he canceled the use of labeling
17 people fair game. All policies with respect to the
18 handling of SP's remained unchanged is what he stated.
19 And that's not verbatim, but it's verbatim
13:32 20 in concept.

21 And that's the first time I started
22 thinking that maybe some of the things I think I had
23 done in a declaration a year before, talking about the
24 whole ethics system -- I think, you've been pulling
13:32 25 statements out of it, perhaps -- that, you know,

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13:32 1 that's -- that began the seed and it's evolved since
2 then.

3 Q. So '89, '90, '91, '92 --

4 A. Eighty-nine.

13:32 5 Q. Well, let me finish my question and see if --
6 if it's more efficient to do it that way.

7 Eighty-nine, '90, '91, '92 you would have
8 had in your mind the idea that saying there was no fair
9 game was false; is that true?

13:33 10 A. No. I said the seed began there. You said
11 when did I first begin to realize that it was -- was
12 false or not -- not -- not really honest and I -- and I
13 answered your question. And what you said doesn't
14 follow. Now, you're go -- trying to go back and be
13:33 15 absolute about it.

16 Q. When did the seed flower that you were giving
17 false testimony?

18 A. Or again -- answer it again. When you all
19 brought out those affidavits and tried to make a big
13:33 20 deal with them with, whoever it was, St. Petersburg
21 Times or CNN. I don't remember who it was.

22 It never even crossed my mind. I didn't
23 even think about those things until you pulled them out
24 and tried to say this is -- and then these confessions
13:33 25 that are dictated by Miscavige that you write back to

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13:34 1 him.

2 Q. The -- the St. Petersburg Times reference was
3 to an interview that you gave to that newspaper?

4 A. Yes.

13:34 5 Q. And among the things you said in that interview
6 was that you had given the order to lose or to destroy
7 the documents in the lawsuit and investigation we've
8 talked about, correct?

9 A. Right.

13:34 10 Q. Do you remember mentioning at any time during
11 that interview or thereafter that you had been
12 instructed by Elliot Abelson, a lawyer for the Church,
13 to do that?

14 A. Oh, I talked to them about that. Absolutely.

13:34 15 Q. You -- you told that to the -- to the --

16 A. Oh, yeah.

17 Q. -- press?

18 A. Yeah.

19 Q. Who -- who did you tell?

13:34 20 A. To the St. Pete Times.

21 Q. Okay. And -- and did -- did you notice whether
22 it ever appeared either on the video version or in the
23 reported version of it?

24 A. I assume it didn't.

13:34 25 Q. Did not?

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13:34 1 A. Yeah. Because that would be libel per se,
2 defamation, you accuse somebody of a crime. That's
3 something that they watch out for.

4 Q. I see.

13:34 5 A. They were extremely worried about Miscavige
6 because Mis- -- because what I disclosed about Miscavige
7 was serial felonies that in -- when you were in an
8 unethical position you probably would have prosecuted.

9 Q. Uh-huh. So -- so libel per se relates to
13:35 10 things which are false allegations, don't they?

11 A. No. Libel per se is a statement that if you
12 accuse somebody of a crime that's -- that's defamation
13 per se.

14 Q. Really?

13:35 15 A. Then you got to get into all of those other --
16 into -- into all of those other elements.

17 MR. BABBITT: Is that a question, really?

18 MR. DEIXLER: Yeah. I was about to, but
19 he interrupted.

13:35 20 Q. (BY MR. DEIXLER) So -- so, let's see. If you
21 say something about somebody that is true that's libel
22 per -- suppose I were to say --

23 A. No. Let --

24 Q. -- you were --

13:35 25 A. Let me -- let me amend that. It's --

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13:35 1 Q. Okay.

2 A. It's a libellus statement or a defa- --

3 Q. Ah. Oh, okay.

4 A. -- a def- -- defa- -- defamatory statement per

13:35 5 se to accuse somebody of a crime, a criminal activity.

6 Q. I don't mean to engage you in a legal

7 discussion because I know you're not a lawyer, but

8 doesn't something to be defamatory have to be false?

9 A. I've said it's a per se thing. Like if I say

13:35 10 something false about you, it's not necessarily

11 defamatory.

12 If I say that Bert Deixler is withholding

13 from everybody the actual fact he brought down Tony

14 Bonanno when he was in the U.S. Attorney's office --

13:36 15 right? -- that's not defamatory. Even though it's

16 false, it's not defamatory.

17 When you accuse somebody of a crime, it's

18 defamatory. It's a negative, that it -- it connotes

19 negativity.

13:36 20 Q. Oh.

21 A. Go check with your libel guys down at your

22 office. You've got a big office with lots of pricey

23 lawyers. They'll -- they'll explain the whole thing to

24 you.

13:36 25 Q. Again, well, I appreciate the -- the

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13:36 1 opportunity to be educated by you, sir, but just one
2 last run around.

3 If an allegation of a -- a crime made is
4 true --

13:36 5 MR. BABBITT: Why is this -- why is this
6 remotely relevant, his understanding of what libel per
7 se is?

8 MR. DEIXLER: Because it demonstrates --

9 MR. BABBITT: I mean, do you -- do you

13:36 10 want -- do you want to have the Judge and the
Magistrate

11 look at this?

12 MR. DEIXLER: Yeah. Yeah. I think it

13 would be helpful because the Judge or the Magistrate

14 would look at what he has testified to about other

13:36 15 people being involved in his obstruction of justice.

16 I've asked him now and I've pursued with him further the

17 substance of it, he's now offered an explanation for why

18 it doesn't appear anywhere, which you as a lawyer and I

19 as a lawyer know it -- it is absurd. And I'm

13:37 20 entitled --

21 THE WITNESS: And it's absurd --

22 MR. DEIXLER: -- to have an --

23 THE WITNESS: -- for you to say that it's

24 absurd.

13:37 25 MR. DEIXLER: -- understanding -- press

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13:37 1 his understanding of why it is that an -- an allegation
2 of criminal conduct by a lawyer doesn't appear anywhere
3 except for the first time in his deposition today. I'm
4 entitled to -- to pursue that.

13:37 5 THE WITNESS: First of all, that's false.

6 MR. DEIXLER: It goes --

7 THE WITNESS: It does appear.

8 MR. DEIXLER: It goes directly --

9 THE WITNESS: It appears -- it appears

13:37 10 somewhere.

11 MR. DEIXLER: It goes directly to --

12 THE WITNESS: It does appear.

13 Q. (BY MR. DEIXLER) Excuse me, Mr. Rathbun.

14 A. No. You made a --

13:37 15 Q. I'm speaking now.

16 A. You made a false statement.

17 Q. Mr. Rathbun --

18 A. You made a false --

19 Q. -- behave yourself.

13:37 20 A. You made a false statement.

21 Q. Behave yourself.

22 A. You made a false statement.

23 Q. I'm speaking now.

24 A. You made a false statement looking at me and

13:37 25 I'm not going past this.

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13:37 1 Q. Mr. Rathbun --

2 A. You made a false statement about me and I'm not
3 going past it.

4 MR. BABBITT: Come on, guys.

13:37 5 A. Elliot -- Elliot Abelson's involvement --

6 MR. BABBITT: Let's get this over with.

7 THE WITNESS: Ted, this is a lie. He just
8 lied about me. He said that it's never appeared before.
9 It's appeared many places.

13:37 10 Q. (BY MR. DEIXLER) Okay. Mr. Rathbun, the way
11 that we're going to have to run these things is one of
12 us will speak at a time.

13 A. Stop lying and we'll be good.

14 Q. And -- and I would appreciate it if you would
13:38 15 respond to my questions.

16 A. Stop lying and we'll be good.

17 Q. And I would also appreciate it if you would not
18 comment about me.

19 A. Stop lying about me and everything will -- will
13:38 20 run just swimmingly around here.

21 Q. What is a Committee of Evidence?

22 A. Committee of Evidence, an internal church
23 justice procedure.

24 Q. And describe for me, if you will, how a
13:38 25 Committee of Evidence operates.

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13:38 1 A. A convening authority appoints a -- puts out
2 a -- a bill of particulars on an issue having to do with
3 justice and a committee is appointed. And they are to
4 go over -- it's like a little -- little kangaroo trial
13:38 5 and they -- they decide the -- the truth or falsity of
6 stuff and recommend penalties or -- or remedies.

7 Q. And -- and what's a kangaroo trial in your
8 lexicon, sir?

9 A. It's where you -- the convening authority
13:39 10 that -- it's like you're a prosecutor but you're also
11 the judge and you control the jury. That's a kangaroo
12 court and that's what a Comm Ev is.

13 Q. I see. So a Committee of Evidence, does it
14 ever reach a result which is positive for the person who
13:39 15 has been accused?

16 A. I don't know.

17 Q. You --

18 A. In theory, it's supposed to.

19 Q. Okay. Have you ever been involved with a
13:39 20 Committee of Evidence?

21 A. Nope.

22 Q. Have you ever participated in --

23 A. I've reviewed them, yeah, as part of that whole
24 thing I told you about.

13:39 25 Q. What? When you were the sole justice of the --

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13:39 1 A. Right.

2 Q. -- supreme court?

3 A. Right. The final line of petition. You're the
4 one that keeps trying to say this -- that, but it's
13:40 5 really a final line of -- of petition.

6 Q. Okay. So how many -- when you were serving in
7 that capacity, how many Committees of Evidence did you
8 review findings of Committees of Evidence?

9 A. I don't know. Probably a few dozen.

13:40 10 Q. Okay. And during what time period were you
11 reviewing these Committees of Evidence?

12 A. Eighty-seven through '04.

13 Q. Okay. Well, with some interruption, correct?

14 A. Yeah.

13:40 15 Q. Okay. So like when you were on the --

16 A. With lots of interruption.

17 Q. Yeah. When you were on the ship you aren't
18 reviewing Committees of Evidence, were you?

19 A. I don't think so.

13:40 20 Q. Yeah. When you were at the mill you weren't
21 reviewing Committees of Evidence, were you?

22 A. I don't think so.

23 Q. When you -- when you were in the prison, as
24 you've described, you weren't reviewing Committees of

13:40 25 Evidence --

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13:40 1 A. No.

2 Q. -- were you?

3 A. No.

4 Q. And so a few dozen? Three or four dozen (36 or

13:40 5 48) Committee of Evidence conclusions you reviewed?

6 A. My best estimate.

7 Q. Okay. And was there ever an example in any of

8 those 48 -- 36 to 48 reviews where the Committee of

9 Evidence finding was different from -- less severe than

13:41 10 the accusations which were made?

11 A. I have no recollection.

12 Q. Okay. Any circumstance ever come to your

13 attention in which a person who had been declared a

14 suppressive person had gone to a Committee of Evidence?

13:41 15 A. No.

16 Q. As far as you know, there's never been a

17 circumstance in which a person who has been declared as

18 a suppressive person has had a Committee of Evidence; is

19 that true?

13:41 20 A. I have no idea.

21 Q. Okay.

22 A. I know that the policy states that once the

23 person's a suppressive person by definition, the fair

24 game policy, no longer is entitled to the protections or

13:41 25 use of the Scientology justice procedures.

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13:41 1 Q. Right.

2 A. So the second you declare somebody, they're
3 out.

4 Q. Okay. And so there is no --

13:41 5 A. No more protection. You're now fair game.

6 Q. Okay.

7 A. For lack of a better word.

8 Q. Okay.

9 A. The -- I can come up with another word if you

13:42 10 want me to. I'm just using it because it's a very
11 descriptive word. I mean, it's the word Hubbard used
12 originally. And I know it -- it -- it rankles you guys
13 somehow, but it's the best description.

14 Q. Yeah. So it would be correct to say that, as

13:42 15 you understand the policy, under no circumstances can a
16 person -- even a person declared as a suppressive person
17 have a -- a hearing before a Committee of Evidence after
18 they've been declared; is that true?

19 A. I mean, sure, they could do it. But it would
13:42 20 be meaningless.

21 Q. Okay. As far as you know there --

22 A. They don't have rights. See, the -- the -- the
23 thing is the -- the pet -- policy that -- that is

24 consistent from the beginning of all of this and runs

13:42 25 all the way through it is that a suppressive person has

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13:42 1 no rights. Okay? You're a non-person.

2 Q. I see. And so it would be -- I just want to

3 make sure I understand clearly your sworn testimony

4 here. There would, therefore, be, to your knowledge, no

13:42 5 circumstance in which a suppressive person could ever

6 have a Committee of Evidence which could result in the

7 person being undeclared, right?

8 A. Oh, there is a possibility, yeah.

9 Q. There is?

13:43 10 A. Yeah. But I've never seen it happen.

11 Q. Okay.

12 A. And for all intents and purposes the way that

13 the sys- -- justice system operates in Scientology,

14 it would -- it -- it wouldn't -- it would be a kangaroo

13:43 15 court.

16 Q. Okay. So all of the time that you were engaged

17 in this administration of the justice system --

18 A. Uh-huh.

19 Q. -- you never heard of a single example of a

13:43 20 person who had been declared suppressive having a

21 Committee of Evidence and having the result be that he

22 or she was undeclared; is that fair?

23 A. I don't -- I don't -- can't recall any --

24 Q. Okay.

13:43 25 A. -- recollect any right now.

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13:43 1 Q. Would you be surprised to know that there are
2 dozens of examples of that?

3 A. Would I be surprised?

4 Q. Yes.

13:43 5 A. I think you guys are capable of creating any
6 record in order to deal with the charges that have been
7 made against you, so it doesn't really surprise me. You
8 guys just create evidence at the drop of a hat.

9 Q. Well, I'm focused on you, sir. So --

13:44 10 A. You're focused on me.

11 Q. I'm focused on you during your tenure when you
12 were --

13 A. You asked me if I was surprised. I told you
14 why I'm not surprised. I'm not surprised.

13:44 15 Q. Okay. So your -- your suggestion is if there
16 is such a circumstance that it's a product of fabricated
17 evidence; is that what you're saying?

18 A. I would -- I would think that it would be.

19 Q. Okay.

13:44 20 A. Or selectively -- and there, you know, I'd have
21 to review it case by case and tell you what was really
22 going on. Because very seldom -- I don't know of any
23 real just -- any Comm Ev, for that matter, that wasn't
24 politically somehow influenced or, you know, the outcome
13:44 25 was not politically influenced.

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13:44 1 Q. Well --

2 A. That's the other thing about a kangaroo court.

3 I can't even for -- for it you can reject the findings

4 and recommendations. Now, he can commit -- he can put

13:44 5 the people who run the committee under a Committee of

6 Evidence if he really thinks that they're trying to do a

7 whitewash in his opinion.

8 Q. Yeah.

9 A. You know, they're not carrying out what he

13:44 10 wants done.

11 Q. Who -- who's the "he"?

12 A. The convening authority.

13 Q. And who's the convening authority?

14 A. I don't know. Look it up. I mean, it's in

13:45 15 their books. It's never really clear. Sometimes the

16 HCO is allowed to be the convening, and sometimes it's

17 the IJC, and sometimes it's -- you know, it's -- I don't

18 know. It's vague. It's one of those vague things in

19 Scientology.

13:45 20 Q. So let me see if I can appreciate fully where

21 we're going on this one.

22 Your view is that the IJC, if dissatisfied

23 with the result of a Committee of Evidence, can take the

24 committee itself and call a Committee of Evidence

13:45 25 regarding their deliberation?

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13:45 1 A. He can commit -- he can -- he can put somebody
2 under a Committee of Evidence if they -- if he isn't
3 happy with their -- what they've done.

4 Q. Now, during the time that you were involved,
13:45 5 you say, in administering these refund policies, was it
6 your policy that anybody who requested a refund would be
7 declared a suppressive person?

8 A. Was it my policy?

9 Q. Yes. In executing your -- your
13:45 10 responsibilities, were you taking care to make sure
that

11 any person who requested a refund would be declared a
12 suppressive person?

13 A. Well, they'd be treated as one. But declares
14 really sort of stopped happening in the '80s sometime.
13:46 15 I mean, they were very seldom used even though people
16 were considered suppressive. So, yeah, they would be
17 treated as SP's for requesting a refund. Whether they
18 got declared or not, that formality, I don't know.

19 Q. Okay. So during the --

13:46 20 A. Usually more often not than -- than so.

21 Q. During the time that you were administering
22 these policies, was it your practice to treat the person
23 who sought a refund as though he were -- he or she were
24 a suppressive person?

13:46 25 A. Oh, yeah.

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13:46 1 Q. And what did you do? How did you do that?

2 A. You just asked me a -- a thought. You asked me
3 about a -- a -- an attitude or thought I had and I told
4 you the thought or attitude. There was no action
13:46 5 necessarily connected with it.

6 Q. So you, in your mind, would say, this person
7 has requested a refund, I think of them as a suppressive
8 person. But you took no actions in furtherance of that
9 thought; is that fair?

13:47 10 A. Not that I can recall.

11 Q. Okay. So as far as you were concerned, a
12 person who requested a refund, while you thought of them
13 as a suppressive person, didn't necessarily have to be
14 declared a suppressive person?

13:47 15 A. Right.

16 Q. Didn't necessarily --

17 A. Like it's in -- it's in the suppressive acts
18 policy letter: To request your moneys back is a
19 suppressive act and -- and the definition of a
13:47 20 suppressive person is a person who commits suppressive
21 acts. So, you know, that's the way -- that's the -- the
22 David Miscavige thinking that was -- that was,
23 essentially, the policy in that regard from the days I
24 was there from '82 through '04.

13:47 25 Q. Okay. But you were the person, as I understood

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13:47 1 it, who had to administer the policy, right?

2 A. We've been through this like six times. I told

3 you what I did.

4 Q. Okay.

13:47 5 A. I told you what I did like six times, Bert. I

6 mean, I -- what have I got to do?

7 Q. In --

8 A. I got to --

9 Q. In administering the policy, sir, it was not

13:48 10 your practice to have the person excommunicated,

11 correct?

12 A. Not my practice to have the person ex- -- No.

13 I think it -- I think during that entire period they

14 made the guy sign excommunications. In fact they even

13:48 15 printed it on the back of the check so when the guy

16 endorsed his check it had a quitclaim and an

17 acknowledgment that the guy was excommunicated.

18 Q. When you say "they" who are you referring to?

19 That was you, wasn't it?

13:48 20 A. No. It was the Church of Scientology.

21 Q. Weren't you doing -- doing the -- the practice

22 that underlay the policy --

23 A. That was already --

24 Q. -- that was --

13:48 25 A. It was already --

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13:48 1 Q. -- part of --

2 A. It was already --

3 Q. -- the policy?

4 A. It was already happening. I mean, it was a

13:48 5 Hubbard policy letter on that.

6 Q. So you were just going along with that?

7 A. With the flow.

8 Q. Yeah.

9 A. Yeah.

13:48 10 Q. Did you think it was ethical?

11 A. Then?

12 Q. Yeah.

13 A. Probably.

14 Q. Did you think it was honest?

13:48 15 A. I don't know.

16 Q. In connection with any work that you did during

17 the time that you were administering these refund

18 policies --

19 A. Uh-huh.

13:49 20 Q. -- did you ever cause to be convened a

21 Committee of Evidence, appear before a Committee of

22 Evidence, or submit evidence to a Committee of Evidence

23 regarding refunds?

24 A. I don't think Committee of Evidence have

13:49 25 anything to do with refunds. Committee of Evidence

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13:49 1 don't have anything to do with refunds. I don't know
2 why you're collapsing these two concepts.

3 Q. And -- and how do you know that?

4 A. How do I know that?

13:49 5 Q. Yes, sir.

6 A. I was the inspector general for ethics for six
7 years, and the inspector general for seven years, and
8 L. Ron Hubbard's legal executive for four years, and the
9 head of the special project for four years, and I was at
13:49 10 the Int base and no lower on the org board from 1970 --
11 January -- or -- or November '78 till the end of '04.

12 That's how I know.

13 Q. Okay. The --

14 A. What do you mean how do I know?

13:49 15 Q. The procedure to obtain a refund was what
16 during the time you were administering this?

17 A. Request a refund.

18 Q. And how was that done?

19 A. Somebody came in and requested a refund or they
13:50 20 wrote. They -- they did it however they did it. They
21 would come in and ask for one or they would write a
22 letter.

23 Q. Were there forms that were employed?

24 A. Routing forms. There's routing forms for
13:50 25 everything in Scientology.

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13:50 1 Q. Okay.

2 A. Yeah.

3 Q. Did you review such forms?

4 A. I've seen them.

13:50 5 Q. Did you review them and approve them?

6 A. I may have.

7 Q. Did you --

8 A. But I don't have any recollection of anything
9 particular.

13:50 10 Q. Did you establish the procedure that was to be
11 followed to get a refund?

12 A. No.

13 Q. Did you create the forms that were required in
14 order to ask for a refund?

13:50 15 A. No. Again, that -- that stuff was already sort
16 of in place when Hubbard was firmly in control. And,
17 you know, there wasn't significant -- I don't think
18 there was significant alterations in it.

19 But, you know, my experience on my

13:51 20 administration, as I've told you, I would look at the
21 broader picture, and if we started getting up to 3-, 400
22 and I started hearing rumblings that somebody was going
23 to be filing suits or it was going to -- somebody was
24 going to do a story on it or it was going to upset the

13:51 25 apple cart in any way, it was a blanket, pull everybody

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13:51 1 in and give them the refunds, have them sign the damn
2 thing on the back.

3 And then if they refused to sign that

4 quitclaim and it came down to it, which happened on a

13:51 5 number of occasions, we ultimately -- I think we

6 ultimately -- well, it was on a case-to-case basis, but

7 usually ultimately allowed them not to do that.

8 Q. So --

9 A. Allowed them to cross it out and initial it.

13:51 10 Q. Do you know the initials "CVB"?

11 A. The initial -- I don't know about an initial

12 CVB.

13 Q. What that -- what those -- what that -- what

14 that is a --

13:51 15 A. Claims --

16 Q. -- an acronym for?

17 A. -- Verification Board.

18 Q. Yeah. What's that?

19 A. It's something that's referred to in certain

13:51 20 policies, but it doesn't really exist in fact. Never

21 has during my tenure.

22 Q. Okay. Do you know whether there are forms that

23 are related to the Claims Verification Board (or CVB)?

24 Have you requested forms?

13:52 25 A. I'm sure all of these forms that we were

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13:52 1 talking about make reference to the CVB.

2 Q. Did you ever serve as a member of the Claims
3 Verification Board?

4 A. There -- I told you there is no Claims
13:52 5 Verification Board.

6 Q. Were -- were you involved in establishing it?

7 A. I just told you there was no Claims
8 Verification Board.

9 Q. Were you involved in the creation of the
13:52 10 documents that give rise to a claim pursuant to the
CVB?

11 A. I told -- I told you that I may have from time
12 to time done some revisions, but it was all the -- the
13 crux of it was -- was all in place.

14 Q. Tell me when you first got involved in doing a
13:52 15 revision of a --

16 A. I have no -- that's --

17 Q. -- CVB --

18 A. I have no idea.

19 Q. -- document?

13:52 20 A. That's like asking me, you know, tell me when I
21 started using Crest instead of, you know, some other
22 toothpaste. This stuff is so insignificant compared to
23 the emphasis that on a daily basis and the pressure
24 cooker that I was under from being second to David

13:53 25 Miscavige during the 22-year period I -- it -- it --

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13:53 1 it's very difficult to explain. I don't know those
2 details.

3 Q. You can't even put it --

4 A. In fact --

13:53 5 Q. -- into a --

6 A. In fact I even told you. I said it's -- I said
7 it's possible. I don't even know for sure.

8 Q. Uh-huh.

9 A. I said, you know, those things come and go, but

13:53 10 they're not -- they're not very significant.

11 Q. As you sit here today giving your testimony
12 under oath, would it be a fair statement to say that you
13 have no memory, whatever, of having any involvement in
14 the drafting, revision, or any other way related to a
13:53 15 CVB application form?

16 A. No. It would not be accurate.

17 Q. Okay. How did I get it wrong? Tell me what
18 you remember about it.

19 A. I told you it's prob- -- it's quite possible
13:53 20 I -- the forms came by. I'd get -- you know, I'd
21 handle, you know, hundreds of -- of written submissions
22 in a -- in a given day, and it might float by me and
23 they changed -- you know, we're going to revise the --
24 you know, this Chaplain's going to come before the
13:53 25 ethics officer on the routing form because we just
found

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13:54 1 an LRH (L. Ron Hubbard) advice from 1962 where he said
2 the ethics officer should come before the cramming
3 officer. I mean, that -- that kind of -- that order of
4 thing.

13:54 5 Q. Uh-huh.

6 A. So, yeah, I vaguely recall some -- those types
7 of revisions being done.

8 Q. Okay. So I'm trying to identify what your
9 vague memory is. So --

13:54 10 A. And I'm telling you I can't. I don't -- I
11 don't -- it was that insignificant that I couldn't tell
12 you specifically. Again, it's all -- it's all to me
13 just administrative paper-pushing stuff. They weren't
14 significant issues.

13:54 15 Q. Sure.

16 A. Yeah.

17 Q. So -- so when -- however vague your memory is,
18 whenever it is that a CVB form modification came to your
19 attention, do you remember thinking to yourself, Hey,
13:54 20 wait a second. There's no such thing as a CVB, and
21 there is no use that's ever been made of this form, and
22 why would anybody spend one second modifying a form for
23 an organization that doesn't exist, or words to that
24 effect? Ever think of that?

13:55 25 A. No.

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13:55 1 Q. Ever mention to anybody why is the number two
2 person of the inspector general of -- of RTC, himself,
3 forced to consider the revision of a form which relates
4 to a nonexistent entity? Ever ask some -- a friend of
13:55 5 yours, Hey, what do you think?

6 A. No.

7 Q. Ever discuss that with Mr. Miscavige? Why am
8 I, this person who deals with celebrities every day and
9 taking care of all of your dirty work, why are you
13:55 10 wasting my time having me review forms that go to
11 nonexistent entities? Never --

12 A. Not in that -- not -- not -- not in the terms
13 that you put it in.

14 Q. Do you remember raising the CVB topic --

13:55 15 A. Can I --

16 Q. -- with him?

17 A. Can I -- can I finish my answer?

18 Q. Sure. I'd like you to.

19 A. Not in the dramatic terms you put it in. But,
13:55 20 yes, I did have thoughts about why am I being bothered
21 with this stupid thing about an ethics officer coming
22 before a cramming officer.

23 The point is, from my perspective, I'm
24 looking at the broader, bigger picture, long-term with
13:55 25 church.

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13:56 1 If the refunds get too thick and we're not
2 paying refunds, we're going to get in trouble. We'd
3 better pay the refunds. If we -- if we are, we're okay.
4 And that's the way I looked at it, and that was my job,
13:56 5 and that's as simple as that. I didn't look down at
6 people with disdain and all of this other business.

7 Q. Yeah. But my focus was a little bit different.

8 My question was --

9 A. Well, it really wasn't.

13:56 10 Q. -- given --

11 A. It wasn't.

12 Q. Give --

13 A. You're -- you're asking me -- you're trying
14 to -- you're trying to -- you mock me and act like I --
13:56 15 I really cared about be -- having three, four stripes
on

16 my shoulder. I really didn't care. I thought that
17 stuff was -- was a hindrance. I'm not that type of
18 person.

19 Q. You -- you thought your position was a
13:56 20 hindrance?

21 A. Oh, yeah. Many times, yeah.

22 Q. Why did you think that?

23 A. Because I was very much relied upon to get to
24 the truth of things. And when you have too much
13:56 25 altitude, it's very difficult to get the people to open

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13:56 1 up with you. And you come in the room, everybody just
2 goes -- like these guys. Like does caught in the
3 headlights. It's like -- you know what I mean?

4 Q. People were intimidating -- intimidated by you
13:56 5 because of your status?

6 A. By your -- by mere presence and status, yeah.

7 Q. Yeah. It happened --

8 A. And so I thought -- I thought it was -- I got
9 along much better when I was more low profile and I was
13:57 10 able to just deal with people who didn't know me or
11 didn't have any history with me or knew who I was.

12 Q. But so Mr. Miscavige -- can you recall ever
13 discussing with him, whether in the low profile
14 dramat- -- or in a dramatic way or nondramatic way,
13:57 15 anything about the CVB and why your time was being
16 wasted modifying forms?

17 A. No. You didn't do that. You don't have those
18 conversations with David Miscavige.

19 Q. You didn't?

13:57 20 A. No.

21 Q. Okay. You're sure of that?

22 A. You didn't. You couldn't. It's just not in
23 the realm of possibility in Scientology.

24 Q. When you say "you" you mean one and --

13:57 25 A. You just generally. Nobody.

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13:57 1 Q. Yeah. And that would include you?

2 A. Let alone -- let alone me.

3 Q. Okay. So discussing forms generally was not

4 something you did with Mr. Miscavige; is that right?

13:57 5 A. No. I don't think so.

6 Q. It's not right? How did I get it wrong?

7 A. No. I said I don't think so. I don't --

8 Q. Okay.

9 A. -- I did see him. I don't think I ever talked

13:57 10 to him about CVB routing forms.

11 Q. Or other forms?

12 A. Other forms?

13 Q. Other forms.

14 A. There are no other forms. There's a routing

13:58 15 form and then there's an Enrollment Agreement which is

16 the subject that we're supposed to be taking about.

17 Q. But you never spoke to Mr. Miscavige about the

18 enrollment forms?

19 A. Oh, absolutely.

13:58 20 Q. Oh, you did?

21 A. Yeah.

22 Q. Where was that conversation?

23 A. In the conference room when he was going

24 Mt. Vesuvius on Mike Rinder and sometimes turning to me

13:58 25 and saying, You make that mother... you know, get it

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13:58 1 right, you know. That kind of thing.

2 Q. All right.

3 A. I told you there was a number of occasions. He

4 was micromanaging that whole thing. From 1998 to 2004

13:58 5 he was in and out of the room and he was -- I said his

6 focus was mainly on Mike Rinder, but he would make --

7 make comments at me. He'd always do that to somebody

8 senior. You make that -- make sure that mother F'er

9 gets it right, and he doesn't go to bed until gets the

13:58 10 such and so, you know. That kind of thing.

11 Q. That was the nature of Mr. Miscavige's

12 instruction to you regarding the enrollment forms,

13 correct?

14 A. Yes.

13:58 15 Q. Okay. And did he make a similar -- to sort of

16 atomize the enrollment form, did he make a similar

17 instruction to you about an arbitration clause in the

18 enrollment form in this '98 to 2002 or 2004 period as

19 you've just described?

13:59 20 A. That was the whole issue that was going on. I

21 mean, he was -- he was down Rinder's throat forcing him,

22 against the resistance of counsel, to make this thing a

23 complete travesty and a joke and a kangaroo court and

24 a -- and a -- a completely and utterly "control both

13:59 25 sides of the picture," quote/unquote, arbitration

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13:59 1 agreement.

2 Q. Did the arbitration clause provide, as you
3 recall, and at any time for the person to choose an
4 arbitrator?

13:59 5 A. Yes.

6 Q. You've attached as an Exhibit F a policy letter
7 of October 1967.

8 A. And I recall that he said -- when that came
9 back, it -- that it had to be that that's the way the
13:59 10 arbitration -- that's the way generally-accepted
11 arbitration works -- one party chooses a party. You
12 choose a party. And they, between them, choose a third
13 party, and Miscavige said, Fuck that. The IJC will pick
14 the third party.

14:00 15 And that was, you know, part of this whole
16 thing that Bill Drescher was saying, You're just gutting
17 and destroying the whole purpose of this thing. You're
18 not going to be able to enjoy the privilege of keeping
19 people out of court and shunting them to arbitration if
14:00 20 you make it a kangaroo's court.

21 Q. He -- he used the word "kangaroo" court?

22 Mr. Drescher in this --

23 A. I don't -- I don't -- I don't know. He may or
24 may not have, but I'm just giving you the concept. It
14:00 25 was twenty years ago, or fifteen years ago.

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14:00 1 Q. Was that in the conversation with Mr. Rinder
2 that you overheard?

3 A. No. I told you there was many, many
4 conversations.

14:00 5 Q. Ah. Mr. Drescher said this to you many times?

6 A. No.

7 Q. How many times did Mr. Drescher say --

8 A. I --

9 Q. -- this to you?

14:00 10 A. I said there was many conversations involving
11 Rinder with Drescher, Miscavige with Rinder with side
12 comments to me.

13 Q. Okay. I'm focused --

14 A. It -- it was --

14:01 15 Q. -- now --

16 A. I know what you're focused on and I'm telling
17 you it wasn't the one. I don't know. It was -- there
18 was many.

19 Q. Okay. Did Mr. Drescher ever tell you in

14:01 20 substance that the arbitration clause is a kangaroo
21 court?

22 A. In substance, yes.

23 Q. Yeah. And he told that to you as opposed to
24 somebody else and --

14:01 25 A. He told it to Rinder and I was there.

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14:01 1 Q. Okay. He -- he -- you overheard the clause --

2 A. Yeah.

3 Q. I mean, you know this?

4 A. I may have -- I may have gotten into it and

14:01 5 said, Stop being a problem, Bill. I don't know. You

6 know, I don't know. I -- I'm telling you Drescher was

7 objecting to putting this there saying it's

8 unenforceable.

9 Q. Uh-huh.

14:01 10 A. And we -- and -- and Mike and myself were to

11 the point where it's like, I don't care. That's -- you

12 just -- you know --

13 Okay. There's a fundamental policy in

14 Scientology. You want to talk about fundamental,

14:01 15 fundamental, fundamental, fundamental. There's a

16 fundamental policy, you -- you're -- you -- you,

17 yourself, all lawyers hired by Scientology are handled

18 pursuant to this policy and the policy is the legal

19 policy for the Church; and -- and in sum and substance

14:02 20 Hubbard says, The job of legal is not to make the

21 organization comply to the law. The job of legal is to

22 make the law comply with the organization.

23 And so this is just, you know -- so I

24 don't -- these aren't events that stick out in my mind.

14:02 25 This is day-to-day life in the -- in -- in the legal

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14:02 1 department in Scientology.

2 Q. Would you take a look at Exhibit No. --

3 MR. DEIXLER: I move to strike the answer

4 as nonresponsive.

14:02 5 Q. (BY MR. DEIXLER) Would you take a look at the
6 Exhibit you've attached as F to your declaration.

7 A. Yeah.

8 Q. Is this the -- what you've described as the
9 fair game policy?

14:02 10 A. Uh-huh.

11 Q. Yes?

12 A. Yeah.

13 Q. And -- and what in particular is what you
14 describe as fair game? Is it the whole policy or just
14:02 15 some section of it?

16 A. Fair game. SP Order. Fair game. That
17 indicates that SP order equals fair game. SP Order.
18 Fair game. Enemy. They all mean the same thing. A
19 equals A equals A. Enemy. SP Order, period. Fair
14:03 20 game, period. And then he defines it: May be deprived
21 of property or injured by any means by any Scientologist
22 without any discipline of the Scientologist. May be
23 tricked, sued or lied to or destroyed.

24 Q. And as of the time that you submitted this
14:03 25 document to federal court, did you believe that that
was

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14:03 1 still an operative policy of the Church of Scientology?

2 A. I didn't believe it. I was living it.

3 Q. Okay.

4 A. Like I live it to this day.

14:03 5 Q. Had that policy, to your knowledge, as

6 expressed in that exhibit been withdrawn?

7 A. Yeah. We've been through this already. I told

8 you the cancellation stated that the practice of

9 declaring people fair game has been canceled.

14:03 10 Q. And when was it --

11 A. The procedure --

12 Q. -- canceled, sir?

13 A. The procedure and the technology for handling

14 suppressive persons does not change; it remains the

14:04 15 same.

16 Q. When was it -- when was that policy letter

17 canceled?

18 A. Sometime in the '60s.

19 Q. Before you became a member of the Church of

14:04 20 Scientology?

21 A. Yeah.

22 Q. A decade before you became a member?

23 A. The policy letter was not canceled. The -- the

24 labeling of people as fair game was not canceled.

14:04 25 Q. The policy letter remains in effect. There is

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14:04 1 no cancellation of the policy letter; that's your
2 testimony under oath?

3 A. The policy -- No. I'm telling you the policy
4 of treating SP's like this is not canceled.

14:04 5 Q. Okay. The policy letter, sir, has it been
6 canceled? Yes or no?

7 A. I have no idea. I know that the -- the -- the
8 activity of declaring people publicly as fair game was
9 canceled, and he even stated, because it creates bad
14:04 10 public relations. The procedure, how we deal with these
11 people, does not change.

12 Q. Let me ask you. Earlier today we were on
13 Exhibit No'd. 1 and Mr. Babbitt said he didn't have a
14 copy and so we've made that available to him.

14:05 15 MR. BABBITT: I -- I've got it now.

16 MR. DEIXLER: Okay.

17 Q. (BY MR. DEIXLER) Would you read for us -- I
18 apologize for saying this, and don't take it as a
19 personal criticism, but I find your handwriting
14:05 20 extremely difficult to -- to read. Could you read
21 the -- just the first page to us so we can get a
22 flavor of this.

23 A. Well, I'll just explain what this document is
24 first.

14:05 25 Q. I'd like you to read it and then you -- then if

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14:05 1 I have any questions or Mr. Babbitt does you can talk
2 about it. But would you read into the record --

3 A. Well, this is the -- this is an intern -- this
4 is an internal Scientology record. This is part of a
14:05 5 liability formula. Okay? And if you are perceived to
6 have acted in a treasonous fashion, you get -- you have
7 to come up through the ethics conditions, through
8 liability, and there's a number of control -- remember,
9 the word "control" -- techniques that are used to make
14:06 10 you thoroughly loyal to the organization.

11 The first step of the liability formula is
12 find out who are your friends. Okay? And on the ship,
13 Greg Wilhere who was assigned to supervise me and watch
14 me when I was doing my sabbatical and going through my
14:06 15 re- -- my reaffirmation, my thought reformation, caused
16 me to write this document to satisfy the first step of
17 the liability formula. So to try to --

18 MR. DEIXLER: I move -- I move to
19 strike --

14:06 20 A. To try to -- to --

21 MR. DEIXLER: I move to strike all of that
22 as nonresponsive.

23 Q. (BY MR. DEIXLER) Would you read, please,
24 Exhibit No'd. 1, the first page, into the record.

14:06 25 A. And so --

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14:06 1 Q. Thank you.

2 A. And so none of the things that I read here
3 should be taken literally; because they're done for the
4 purpose of -- of escaping further degradation and
14:06 5 punishment within Scientology.

6 Q. You were lying at the time you wrote it?

7 A. Did I say that?

8 Q. I'm asking you.

9 A. Did I say that?

14:06 10 Q. Were you lying at the time you wrote this
11 letter?

12 A. Lying about what?

13 Q. About the substance of the letter.

14 A. I just gave you the context of the letter and

14:07 15 you moved to strike it. Do you want the context or do
16 you not want the context?

17 Q. Can you answer my question yes or no?

18 A. No. I'm not going --

19 Q. Were you lying or not?

14:07 20 A. I'm not going to -- I'm not going to play this
21 game with you. I'm not going to play this game with
22 you. I explained the context of it. You moved to
23 strike it and now you're wanting to get more context.

24 Q. No.

14:07 25 A. I've given --

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14:07 1 Q. I'm not asking for context.

2 A. I've give -- I've --

3 Q. I'm asking for --

4 A. I've given you --

14:07 5 Q. -- your judgment, sir.

6 A. I've given you the context and -- and that's

7 that.

8 Q. Okay. Were you --

9 A. So, yeah, the whole thing is false in that this

14:07 10 is not a sincere communication. This is something that

11 was elicited pursuant to a mind control technique in

12 Scientology that you have to do -- go through these

13 degrading and demeaning things and obsequious actions in

14 order to be trusted again.

14:07 15 Q. Okay.

16 A. Okay.

17 Q. And you --

18 A. And so --

19 Q. -- at the time you wrote --

14:07 20 A. And so that's the context --

21 Q. -- it you knew --

22 A. -- of this letter.

23 Q. -- it was false and insincere, correct? Is

24 that correct, sir?

14:07 25 A. You know, you asked me this question. Like I

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14:07 1 told you, when you're back then and there and you're
2 subjecting to this and participating in it, it's a
3 meaningless question.

4 Q. At the time you wrote it, did you believe it
14:07 5 was true? Yes or no? Yes or a no?

6 A. It's not a yes or no question.

7 MR. BABBITT: You can answer any question,

8 Mr. Rathbun. You can explain it any way you want.

9 THE WITNESS: I did explain it three times

14:08 10 and then we'll move on.

11 Q. (BY MR. DEIXLER) At the time you wrote
12 Exhibit 1, did you believe what you said in this
13 letter was true?

14 A. No.

14:08 15 Q. Either yes or a no?

16 A. No. No.

17 MR. BABBITT: Objection.

18 A. The answer is no.

19 Q. (BY MR. DEIXLER) Okay. Thank you. Now,

14:08 20 please read into the record page No. 1 of Exhibit 1.

21 A. Dear sir, here --

22 Q. Well, it starts at a date. What is the date,
23 sir?

24 A. 30 November '93, which was about 17 to 20 days

14:08 25 after me meeting Miscavige in New Orleans where he

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14:08 1 capitulated and offered me this reward and offered --
2 and assigned me Kha-Khan status.

3 Q. What -- what was the reward?

4 A. It was to train as a Scientology auditor and go

14:08 5 all the way up the Scientology bridge to all of their
6 higher levels.

7 Q. On the ship --

8 A. On the ship --

9 Q. -- in the Caribbean?

14:08 10 A. -- without any other distractions, and also be
11 deemed Kha-Khan, which is an ethics status, which
12 really -- which you are relieved of the death penalty
13 ten times over.

14 Q. Okay. You had -- had you blown from -- from
14:09 15 the Church?

16 A. I had blown from the Church. I was -- and had
17 been gone for nine days.

18 Q. Uh-huh.

19 A. And we went through this. And he called me in
14:09 20 San Antonio and we met in New Orleans.

21 Q. And is the act of blowing from the Church as a
22 member of the Sea Org something that is a suppressive
23 act?

24 A. According to Scientology, yes.

14:09 25 Q. So that the opportunity existed for you to be

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14:09 1 declared a suppressive person; is that true?

2 A. Not really.

3 Q. No?

4 A. Because Miscavige had -- was too afraid that I

14:09 5 might screw up the exemption and that's why I got the
6 red carpet treatment.

7 Q. Oh, I see. Okay. Why don't you read into the

8 record this -- this letter that you wrote on 30

9 November in 1993.

14:09 10 A. Do I --

11 Q. It was to Mr. Miscavige; am I correct?

12 A. Do I have to read this whole letter?

13 Q. No. I'm going to have you read the first page.

14 A. Okay.

14:10 15 Q. Maybe half of the second page.

16 A. Here is the letter I told you I was going to

17 write. First of all, I wanted to thank you for all of

18 the things you did as a friend, period. I know you

19 first as a friend, period. We didn't really know each

14:10 20 other before the 1980 Super Bowl trip, period. I don't

21 even remember how it was that you came to invite me or I

22 invited myself. Alls I know is the next thing I know

23 we're at the Beaumont truck stop waffling waffles --

24 wolfing waffles -- wolfing waffles and plotting the rest

14:10 25 of the drive strategy.

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14:10 1 Q. Keep going. Just finish the second page.

2 That's --

3 A. I guess I was --

4 Q. -- what I want you to read.

14:10 5 A. I guess I was sort of driven to New Orleans

6 this year toward the location of that pleasure moment.

7 Q. And read the next paragraph, if you would.

8 A. In any event, I realize in getting OW's cleared

9 that you have always been a great friend; and I haven't

14:11 10 even acknowledged that fact or recognized it because of

11 my built up withholds. Wherever we took a break --

12 Okay. So that's the first two pages.

13 Q. So O, slash, W, what does that stand for?

14 A. It's overts and withholds. It's a -- it's a

14:11 15 mind control technique of putting the person out of

16 fact. You're required to disclose every errant thought

17 or action that you've ever done and the end product of

18 it is, is, that you believe you -- you -- you really

19 sort of -- now that you know everything and that I'm the

14:11 20 mea culpa you -- you -- you sort of balance scrape to

21 get yourself back in. Thus, you do a liability

22 formula --

23 Q. Okay.

24 A. -- and -- and state who your friends are.

14:11 25 Q. And so this letter that -- this letter you

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14:11 1 wrote to Mr. Miscavige on the 30th of November 1993, you
2 wrote it even though you didn't believe sincerely what
3 you were writing, correct?

4 A. Well, no. When you -- See, you didn't listen

14:12 5 to me. When you write those OW's -- if I right now made
6 you, and you agreed to do it, confess everything that
7 you had any embarrassment about, any doubt about, any
8 shortcoming, any dishonest, immoral, unethical stuff
9 that you've done, made you confess it all, everything,
14:12 10 disclose to me everything, you would be in an
obsequious

11 sort of frame of mind and -- and -- and compliant frame
12 of mind; and that is the frame of mind that I was in
13 when I did it. So -- so your question -- that -- that's
14 my answer to your question.

14:12 15 Q. Well, I think actually your example is
16 inconsistent, so let me explore it.

17 You told me a moment ago that Exhibit 1 is
18 insincere, that this isn't actually how you felt.

19 A. So we're going to whipsaw. We're going to

14:12 20 play --

21 Q. When --

22 A. -- whipsaw --

23 Q. When --

24 A. -- games.

14:12 25 Q. Well, which is it? Was it true or was it false

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14:12 1 at the time you wrote it?

2 A. I just told you. I -- I have no way -- better
3 way to explain it.

4 Q. Was it true --

14:13 5 A. I was in a --

6 Q. -- or false, sir?

7 A. I was in -- I was in an obsequious,

8 propitiative frame of mind by design, by the design of

9 the technology, and it was sincere -- I was a --

14:13 10 sincerely in a state of weakened emotional capacity and
11 that was my state of mind.

12 Q. Whether you were strong emotionally or weak

13 emotionally, the substance of what you wrote on 30

14 November 1993 was what you honestly --

14:13 15 A. Ask me --

16 Q. -- believed --

17 A. -- a specific --

18 Q. -- isn't that true?

19 A. -- question. Do -- did I -- did we go to a

14:13 20 truck stop in Beaumont. That's true. Okay.

21 Q. Did you regard Mr. Miscavige as your friend?

22 A. At that time? At that moment?

23 Q. Yeah.

24 A. After having submitted to all of that mind

14:13 25 control, I did.

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14:13 1 Q. Yeah. Did you think that he had been quite a
2 good friend to you?

3 A. Not really, no.

4 See, you got to recognize he -- he

14:13 5 confessed. He -- he got on his -- he got -- he

6 prostrated himself and begged forgiveness. Which I

7 thought to myself, my God, this amazing. This has never

8 happened. All of these people have been declared

9 suppressive or defied him and all of this other kind of

14:14 10 stuff, and here he is begging me. Something major has

11 changed with him. Now, I'm going to reciprocate. Okay?

12 And, of course, I later found out that all

13 of that was somewhat by design by him to save his own

14 neck and his own skin.

14:14 15 Q. "Prostrate" means to --

16 A. So --

17 Q. -- to have -- stretch himself on the floor head

18 bowed?

19 A. Basically.

14:14 20 Q. He was literally doing that, sir?

21 A. Figuratively.

22 Q. Oh, tell me what he did then.

23 A. I've already been through it. If it's been

24 asked and answered. Let's move on.

14:14 25 Q. No. You just said he prostrated.

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14:14 1 A. I've been through this with you. He met me in
2 a hotel room in -- in New Orleans and begged me, begged
3 me --

4 Q. What did he say?

14:14 5 A. -- begged me to return.

6 Q. What did he say?

7 A. I apologize. I'm sorry. I'll never do this
8 stuff again. It'll never go weird and personal like
9 this. I'm going to stop abusing people and I'll stop
14:14 10 abusing you. You come back. You will get rewarded for
11 what you did because, after all, the IRS exemption never
12 would have happened absent you. You are the guy that
13 made it happen. Okay? And you are a Kha-Khan.
14 You're -- you -- you could commit murder ten times and
14:15 15 you're forgiven.

16 Q. You remember --

17 A. Okay?

18 Q. -- that conversation vividly; that's almost a
19 verbatim retelling of it?

14:15 20 A. Well, it was a significant event in my life.

21 Q. Yeah.

22 A. That's the -- that's the -- that's the sum and
23 substance of it. Now, if you ask me -- if you had a
24 transcript of it -- was it put in exactly in those
14:15 25 words, I don't know.

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14:15 1 Q. I --

2 A. It's twenty years.

3 Q. I am interested. In addition to your, no

4 doubt, indispensable elements, were lawyers also

14:15 5 involved in connection with the IRS exemption?

6 A. Only as a afterthought. Although the

7 litigation lawyers who didn't really get acknowledged by

8 Miscavige had some effect, but the --

9 Q. The lawyers at Williams & Connolly did they --

14:15 10 were they involved in any way?

11 A. Hardly at all.

12 Q. No?

13 A. They -- they were -- they had screwed the whole

14 thing up and that's what caused Miscavige and me to go

14:15 15 in the -- what are you smirking at?

16 Q. Okay.

17 A. Wait. Wait. Dude, are you asking me --

18 THE WITNESS: You know, Ted, I'm about

19 ready to walk.

14:15 20 MR. BABBITT: Well, if you walk, I'm not

21 going to be able to present your testimony because I

22 have to ask you those questions.

23 You know, I -- I -- I agree with you that

24 this is an abuse of process, Mr. Rathbun, but there's

14:16 25 nothing I can do about.

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14:16 1 THE WITNESS: All right. All right.

2 MR. BABBITT: Okay?

3 THE WITNESS: Is there a time limitation

4 at some point? I mean, they can't just use the

14:16 5 litigation process to continue to harass me day after

6 day, can they?

7 MR. BABBITT: Well, you know, it -- it --

8 I know you're upset and -- and in -- and he's asking a

9 lot of questions that will never make any difference in

14:16 10 this case. But the testimony that you're going to give

11 is going to make a difference, so I would ask you to

12 stay and -- and just --

13 THE WITNESS: Is there a time limitation

14 at some point on all of this or are they just going to

14:16 15 have an open ended --

16 MR. BABBITT: Yeah. Six-and-a-half hours.

17 Excuse me.

18 THE WITNESS: Six-and-a-half hours?

19 MR. BABBITT: Yeah.

14:16 20 THE WITNESS: Okay.

21 MR. DEIXLER: The -- the videographer

22 tells me we need to change the tape. So why don't we go

23 off the record for a couple of minutes to let him do

24 that.

14:16 25 THE VIDEOGRAPHER: The time is 2:17 with

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14:17 1 the end of Disc 2, we're off the record.

2 (Short break taken.)

3 THE VIDEOGRAPHER: The time is 2:23. This

4 is beginning of Disc 3, we are back on the record.

14:22 5 Q. (BY MR. DEIXLER) Okay. Mr. Rathbun, it was

6 part of your involvement with the Church to be

7 involved either in a supervisory way or other ways

8 with numerous litigations; is that true?

9 A. Uh-huh. Yeah.

14:23 10 Q. And was one of the litigations with which you

11 were involved a litigation involving a woman named Vicki

12 Aznaran?

13 A. Correct.

14 Q. And Ms. Aznaran was your predecessor as the

14:23 15 President of RTC?

16 A. Correct.

17 Q. And she brought an action against the Church?

18 A. Correct.

19 Q. And made a series of allegations which you were

14:23 20 involved in the defense of; is that correct?

21 A. Correct.

22 Q. Would it be a fair statement to say that, in

23 your experience, Mr. Miscavige, as of 1990, had never

24 run or assumed responsibility for any litigation

14:24 25 involving the Churches of Scientology?

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14:24 1 A. You're saying that he did not have
2 responsibility?

3 Q. Yes.

4 A. Up till 1990?

14:24 5 Q. Yes.

6 A. No. False.

7 (Exhibit No. 5 marked.)

8 Q. (BY MR. DEIXLER) Okay. Let me mark as

9 Exhibit No. 5 a document entitled Declaration of Mark

14:24 10 C. Rathbun dated the 25th day of September 1990.

11 First, I'd ask you, sir, to look at the last page and
12 tell me whether that is a copy of your signature.

13 A. Looks like it.

14 Q. And if you would turn your attention to

14:24 15 paragraph No'd. -- well, I should ask you to look above

16 your signature. The -- you declare under penalty of

17 perjury under the laws of the United States of America

18 that the foregoing is true and correct. That was your

19 affirmation of the truth of this declaration, sir?

14:25 20 A. Uh-huh. Yeah.

21 Q. Yes?

22 A. Yeah.

23 Q. If you turn your attention to paragraph No'd. 9

24 on page 3 running over to page 4, is the statement you

14:25 25 made, under penalty of perjury, From my own personal

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14:25 1 knowledge, I am aware that David Miscavige has never,
2 quote, run, closed quote, or otherwise assumed
3 responsibility for any litigation of the Churches of
4 Scientology false?

14:25 5 A. Correct.

6 Q. Okay. So this was a -- a false statement under
7 oath made by you?

8 A. Yeah.

9 Q. Okay.

14:25 10 A. That whole paragraph is worded in such a -- a
11 fashion that you could literally argue that it's not a
12 perjurious statement. But the sum and substance of this
13 paragraph is false.

14 Q. And that was prepared by you with the

14:26 15 understanding it was going to be reviewed by a Judge?

16 A. Yes.

17 Q. And you did that with the intention of

18 misleading this Judge, correct?

19 A. With the -- with the intention of protecting

14:26 20 David Miscavige.

21 Q. And knowing -- knowing that it was going to be

22 read by a Judge who would be misled by it, correct?

23 A. Correct.

24 Q. Okay. Now, you also provided testimony via

14:26 25 affidavit or declaration in the Armstrong case; is that

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14:26 1 true?

2 A. Yes.

3 (Exhibit No. 6 marked.)

4 Q. (BY MR. DEIXLER) And let me ask you to take a

14:26 5 look at what I'm going to mark as Exhibit No'd. 6,

6 which is a multipage document signed by you on

7 the 13th day of August 1991. Tell me whether you

8 recognize that as a photocopy of your signature on

9 page 23.

14:26 10 A. Looks like it.

11 Q. Okay. And right above your signature on

12 page 23 the words, I declare under penalty of perjury

13 under the laws of the State of California that the

14 foregoing is true and correct; am I right about that?

14:27 15 A. Yep.

16 Q. And let me ask you to comment, if you would, on

17 a few of the representations that are contained here.

18 A. Yeah.

19 Q. You first begin by saying that RTC had the

14:27 20 responsibility of ensuring the nature and quality of
the

21 services and products associated within the religion of

22 Scientology and its technologies of spiritual

23 counseling, ethics and administration were properly

24 applied in accordance with the standards set forth by

14:27 25 the founder of the religion L. Ron Hubbard.

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14:27 1 That's a true statement, isn't it?

2 A. Where is this?

3 Q. In the very first paragraph on the very first
4 page under the words, I, Mark C. Rathbun, hereby
14:27 5 declare.

6 A. You could argue that --

7 Q. I'm sorry?

8 A. You could argue that from --

9 Q. Did you believe --

14:28 10 A. -- their perspective.

11 Q. Is -- Did you believe it to be true at the time
12 you made that statement?

13 A. Somewhat.

14 Q. You thought it was in part false and in part
14:28 15 true?

16 A. Yeah.

17 Q. And notwithstanding the fact that you believed
18 it was in part false, you signed the declaration under
19 penalty of perjury?

14:28 20 A. Right. Whatever was needed to protect David
21 Miscavige and Scientology was -- was stated.

22 Q. Okay.

23 A. Yeah.

24 Q. And so let's go down --

14:28 25 A. Yeah. That was ethical. That's ethical in

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14:28 1 Scientology.

2 Q. Okay.

3 A. And -- and actually there's a whole mind thing
4 that goes on that makes you convinced that it's honest.

14:28 5 At the time you think it's honest.

6 Q. Okay. But you've just testified that at the --

7 A. I just told you what I said.

8 Q. -- at the time you believed it was false in
9 part, correct?

14:28 10 A. Yes.

11 Q. Okay. Let's go down further and see paragraph
12 No. 3. In the last sentence, you say, Scientologists as
13 a group comprise the most ethical people, following the
14 highest ethical standards of any group in the world
14:28 15 today; do you see that?

16 A. Yeah.

17 Q. And did you believe that to be false at the
18 time you swore to it?

19 A. Well, again, this is within Scientology
14:28 20 thinking, yes, it's true.

21 Q. Okay. As you look at it today, you don't think
22 it's true?

23 A. Yeah. As a -- as a -- only as a brainwashed
24 Scientologist would I think that this is true.

14:29 25 Q. I see. And as we go down further, in

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14:29 1 paragraph 4 you say, The system of ethics and justice
2 which its parishioners prize so highly... Well, let me
3 withdraw it and focus you particularly.
4 The standards in paragraph 4, toward the
14:29 5 bottom you say ...the standards of ethical conduct that
6 are required of each and every Scientologist and of the
7 developments of L. Ron Hubbard which led to the creation
8 of an ecclesiastical ethics and justice system that is
9 honest, ethical and fair.

14:29 10 At the time you swore to the statement
11 that the justice system was honest, ethical and fair,
12 did you believe that to be true?

13 A. Under the Scientology ethics that anything that
14 helps Scientology is good and anything that hurts it
14:29 15 is -- is evil.

16 Q. And so at the time you thought about, gee, is
17 this going to be regarded as true under oath or will
18 this be regarded as mislead -- intentionally misleading
19 for the Judge who's going to read it; do you remember
14:30 20 thinking that?

21 A. Don't understand your question.

22 Q. You -- you phrased the language as you did with
23 the goal of convincing the Judge of something that you
24 didn't actually think he would believe was true,
14:30 25 right?

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14:30 1 A. No. I didn't say that.

2 Q. Okay. You thought he would believe it?

3 A. I don't know what I thought impact it would

4 have. But you asked me whether I believed it. And as a

14:30 5 avowed member of Scientology where anything that helps

6 Scientology is good and anything that harms Scientology

7 is bad is ethical, therefore, is akin to truth, it was

8 true.

9 Q. Okay.

14:30 10 A. Okay. And --

11 Q. In retrospect you think now this was false?

12 A. Well, let me see what it says. Oh, yeah. I

13 mean, this is -- it's not only false. It's the --

14 it's -- it's like a polar opposite.

14:30 15 Q. Right.

16 A. Yeah.

17 Q. So -- so what you testified to under oath in

18 1991 is the polar opposite of the truth you now realize?

19 A. Yes.

14:30 20 Q. Okay.

21 A. Absolutely.

22 Q. Let me go further down. You talk about the

23 phrase "fair game."

24 A. Uh-huh.

14:31 25 Q. And in paragraph 5 you -- well, I guess --

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14:31 1 A. I already covered this with you earlier.

2 Q. -- halfway through you say, Fair game was a
3 term used in the Church for a short while in 1960s. By
4 the time Armstrong (the plaintiff in this case) first --
14:31 5 A. Uh-huh.

6 Q. -- entered the Church the term was no longer
7 used and the policy referring to it had been expressly
8 canceled. Was that true?

9 A. No.

14:31 10 Q. It was false?

11 A. Right.

12 Q. And at the time you signed this declaration you
13 believed it to be false, correct?

14 A. No.

14:31 15 Q. You -- you thought it was true? You thought
16 the policy of fair game --

17 A. My mind.

18 Q. -- had been --

19 A. My mind was --

14:31 20 Q. -- canceled?

21 A. My mind was not my own.

22 Q. Your mind was not your own?

23 A. No.

24 Q. It was being controlled?

14:31 25 A. Yes.

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14:31 1 Q. And -- and was being controlled by anyone in
2 particular or --

3 A. By a system. And I'll say it for the 15th time
4 in this deposition.

14:31 5 Q. Yeah.

6 A. You keep accusing me of delaying things and I
7 keep saying that you ask and answer the same question
8 over and over and over again.

9 Under the adopted ethics of a

14:32 10 Scientologist that anything that helps L. Ron Hubbard
11 and Scientology is good, anything that detracts from it
12 is evil. That was the adopted ethos. And under that, I
13 believed it was true.

14 Q. You go on --

14:32 15 A. Outside of that influence, it's absolutely the
16 180-degree opposite.

17 Q. Uh-huh. And in -- in the --

18 A. It gets you -- it gets people to do -- it gets
19 people to do --

14:32 20 Q. Uh-huh.

21 A. -- as a matter of course, and I -- it gets them
22 to do unconscionable and unsocial acts as a routine and
23 feel good about doing them.

24 Q. Okay. When -- when you left the Church for the

14:32 25 first time in 1993 --

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14:32 1 A. Uh-huh.

2 Q. -- did you think back to the declarations you
3 had given in 1991 and think something like, oh, my
4 goodness, I've been saying things that are false and
14:32 5 untrue?

6 A. No.

7 Q. And I'd never do that again?

8 A. All I was thinking about was escaping.

9 Q. Yeah. And -- and after thinking about
14:33 10 escaping, did you think about what you may have done --
11 done while you were at the Church in a high position?

12 A. Not until I got myself free mentally of the
13 mental slavery which is only a few years ago.

14 Q. You go on in paragraph No'd. 5 to say --
14:33 15 defining fair game. It meant simply that an individual
16 so labeled was not entitled to the protection of the
17 Scientology system of justice. That was true?

18 A. Well --

19 Q. That's all it meant?

14:33 20 A. That's -- it didn't -- it's not -- it -- it --
21 not exclusively. It's literally true, but it's
22 incomplete statement.

23 Q. Okay. Let's go on to paragraph No'd. 7 then.

24 There you say, The Scientology ethics and justice system
14:34 25 is a privilege and benefit for Scientologists, period.

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14:34 1 Did you believe that to be true?

2 A. Of course. Of course --

3 Q. Okay.

4 A. -- you do when you're under Scientology.

14:34 5 Q. And -- and -- and --

6 A. Everything about Scientology is good and

7 everything that's against Scientology is bad. That was

8 my frame of mind back then.

9 Q. And --

14:34 10 A. Just like these people's is now. (Indicating.)

11 Q. At the time that you wrote that statement and

12 swore to it under oath, did you believe that statement

13 to be true?

14 A. At that time I believed it to be true.

14:34 15 Q. Okay. Did you -- When did you first believe it

16 was not true?

17 A. I told you. I've been through this before.

18 The very first time is when I saw how ridiculous it was

19 trying to play this word game with fair game when Warren

14:34 20 McShane was being cross-examined in the Yanny case. And

21 it became patently clear six, seven years out of

22 Scientology for good, and really sort of transcending

23 the whole mental slavery, understanding exactly how it

24 works and being free of it.

14:34 25 Q. So the Yanny was in about 1991 or '92?

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14:34 1 A. Eighty-Nine.

2 Q. Oh '89?

3 A. Or '90.

4 Q. Okay. So these were declarations that were

14:35 5 submitted by you after the Yanny case, right?

6 A. Whatever. I told you it was a -- it was -- you

7 asked me when it first began and I said that's when it

8 first began. So it could have been after, but whatever.

9 Q. Okay. So paragraph No'd. 7 that we've been

14:35 10 studying together, Scientologists can and do avail

11 themselves of the Scientology ethics and justice system

12 and it's inexpensive, swift, sane, accurate and based

13 solely on getting to the truth. You made that statement

14 under oath, didn't you, sir?

14:35 15 A. I believed it then; and I know it's a lie now.

16 Q. Okay. And you didn't realize it was a lie

17 until about when?

18 A. Until I became free of the Scientology mind

19 manipulation tetanus.

14:35 20 Q. About a year ago? Two years ago?

21 A. I don't know. Evolved over time.

22 Q. I see.

23 A. Yeah.

24 Q. You go on --

14:35 25 A. Four or five -- four or five years ago

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14:35 1 probably.

2 Q. You go on to say --

3 A. Eight -- eight years, maybe, even.

4 Q. Eight years?

14:35 5 A. I mean, I don't have a -- I didn't hold a
6 lot -- hold a lot -- you know, when I left the last
7 time -- so maybe ten years, but -- but go on.

8 Q. So in or about 2004 you realized --

9 A. I don't know.

14:36 10 Q. -- that the statements --

11 A. Sometime -- sometime since leaving, okay?

12 Q. So you left in December of 2004. So sometime
13 in or about December --

14 A. I don't know. I never -- I never reviewed this

14:36 15 statement. I mean, that's the -- it's just sort of an
16 absurd question.

17 You keep asking the same question for each

18 statement. These statements don't have any -- it's just
19 you do this. When you're in Scientology you say what

14:36 20 needs to be said in order to defend Miscavige and
21 Scientology and Hubbard. Okay? And so you're taking
22 each statement and going through, and so I recognize the
23 entire statement really is -- is dishonest. Okay? It's
24 bent because -- and it's justified at that time because

14:36 25 anything that's good for Scientology is good and

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14:36 1 everything that's against Scientology is bad. Anything
2 you do to help Scientology is a good, honest, upright
3 thing. Okay?

4 Q. You -- you went --

14:36 5 A. And so when we go through this thing about you
6 tell me was that paragraph -- you know, we're just going
7 to play this -- it applies -- what I told you about --
8 about getting outside of the Scientology mind control
9 and adopting this ethos that we've gone through eighteen
14:37 10 times now. It applies to every paragraph from the
11 beginning until the end.

12 Q. Okay.

13 A. Or do you insist that we're going to go through
14 paragraph by paragraph?

14:37 15 Q. I do, yeah.

16 A. Okay.

17 Q. And -- and -- and multiple times. You just --
18 please don't --

19 A. Mult- -- mult- -- you're going to go through it
14:37 20 multiple times?

21 Q. Yeah. Don't throw the exhibits. It's
22 improper. All right. This is as though you're
23 proceeding in a federal court, sir. Will you do that
24 for me?

14:37 25 A. If you conduct yourself in that fashion, I

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14:37 1 will.

2 Q. One is judged by a committee of his peers whose
3 only task is to get to the truth of disputes between
4 Scientologists.

14:37 5 A. Realized it was a lie between '04 and the
6 present.

7 Q. Okay. But at the time you wrote this, you were
8 the person who was responsible for administering such
9 things as the refunds and the entire justice system;

14:37 10 isn't that true?

11 A. Right. You could -- you're --

12 Q. At the time you were doing that, did you think
13 that you were acting properly or improperly?

14 A. On what?

14:38 15 Q. With regard to the administration of the
16 justice system.

17 A. Sometimes properly. Sometimes not properly.

18 Q. So during the time you were administering
19 justice at the Church of Scientology even you concluded
14:38 20 that you were doing things that were improper; is that
21 fair?

22 A. No.

23 Q. How did I get it wrong?

24 A. How did you get what wrong?

14:38 25 Q. You go on to say, Scientology justice

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14:38 1 committees do not punish. They only get to the truth
2 and attempt to rectify injustices.

3 A. That's a blatant lie.

4 Q. Okay. And did you know it was a lie then?

14:38 5 A. I guess on some level, perhaps.

6 Q. I mean, when you, yourself, were being involved
7 in administering justice, you did more than try to get
8 to the truth and rectify injustice?

9 A. I did?

14:38 10 Q. Yeah.

11 A. No.

12 Q. I'm asking you.

13 A. No.

14 Q. No. All you wanted to do was punish people?

14:38 15 A. No. What are you talking about? You're --
16 you're confusing me. You're saying that when I was
17 administering justice up until 1989 I was doing it for a
18 decent purpose?

19 Q. That's what I'm asking you.

14:39 20 A. Yes. I -- Me personally, yes.

21 Q. Okay. You were always --

22 A. But I've seen the -- the -- the procedures used
23 and misused --

24 Q. But not by you?

14:39 25 A. -- more than they were -- more than they were

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14:39 1 properly used.

2 Q. But not by you?

3 A. Right.

4 Q. You were special?

14:39 5 A. No. I just was sincere. That's all.

6 You think that's funny.

7 Q. Scientology is predicated on truth and honesty.

8 No Scientologist in good standing would even think of

9 lying in such a proceeding or attempt to derail and

14:39 10 misdirect a proceeding through false and inflammatory

11 testimony such as one sees in civil cases in every

12 courthouse. You made that statement under oath,

13 correct?

14 A. Correct.

14:39 15 Q. Was that a lie?

16 A. At that time I don't know. I don't know.

17 Q. In paragraph No'd. 9 you say, Scientologists

18 consider this ethics and justice system a major benefit

19 derived from membership in the Church; do you see that?

14:40 20 A. Uh-huh.

21 Q. Yes?

22 A. I think -- I think Miscavige wrote that. I

23 wouldn't. It's not even -- even something that would

24 cross my mind.

14:40 25 Q. You think Mr. Miscavige wrote this declaration?

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14:40 1 A. I think he wrote that line.

2 Q. He did?

3 A. Yeah.

4 Q. Which lines did anybody else write other than

14:40 5 yourself?

6 A. I don't know. I'm not looking at it. I'm just

7 listening to you.

8 Q. Okay. Well, why --

9 A. I'm -- I'm not going to go through --

14:40 10 Q. -- do you think --

11 A. I'm not going to go through it line by line. I

12 want you to answer -- ask the questions that are --

13 you're saying are relevant to this case, because you're

14 making your record, because you're going to go wipe me

14:40 15 out in front of a federal judge. You're the one asking

16 the questions. I'll answer your questions.

17 Q. Yeah. My question was --

18 A. That's the way you say we're going to run the

19 deposition and that's what I'd like to try to do.

14:40 20 Q. Perfect. Other than line 1 on paragraph 9 is

21 there any other line that so far we've looked at that

22 you believe Mr. Miscavige wrote and not you?

23 A. That's the first one I pointed out that I

24 recognized that.

14:40 25 Q. Okay. And -- and do you remember the

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14:40 1 circumstance which gave rise to Mr. Miscavige writing a
2 line in your declaration? Did he come in to see you at
3 the Word processer or --

4 A. Oh, he was -- he was --

14:40 5 Q. -- write it in hand?

6 A. He was intimately involved in all of this
7 stuff. I mean, I -- I'd have to submit every pleading
8 to him. Every affidavit. Not just my own.

9 Q. Uh-huh.

14:41 10 A. Every declaration. Every declaration, every
11 pleading on anything that had -- that was beyond just
12 a -- a minor discovery dispute had to be submitted to
13 him in detail, and it had to be exactly as it was going
14 to be filed, and he had to sign off on it or it didn't
14:41 15 get filed between 1982 and when I blew in '93.

16 Q. So the as --

17 A. On -- on -- on important cases. So that,
18 absolutely, he would have to -- and he would -- and he
19 would write -- just like your handwriting on there.

14:41 20 (Indicating.)

21 Q. Yeah.

22 A. Can I see that for a second?

23 Q. No.

24 A. Okay. I was just going to use it as an
14:41 25 example. I mean, you've got all sorts of

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14:41 1 interlineations and lines. That's -- that's typically a
2 line of an affidavit David Miscavige would see.

3 Q. Right.

4 A. He would put words --

14:41 5 Q. Right.

6 A. -- into your mouth. So, yeah, he had a very,

7 very --

8 Q. So --

9 A. -- a very, very involved hand in it, yes.

14:42 10 Q. Okay. So there --

11 A. To answer your question.

12 Q. So there's no doubt in your mind that, at the

13 time in September of 1990, in the Aznaran declaration

14 that you were lying when you said, David Miscavige has

14:42 15 never run or otherwise assumed responsibility for any

16 litigation of the Churches or Scientology?

17 A. I think it's clever -- I think it's --

18 Q. That's just a flat lie, right?

19 A. I think it's cleverly worded.

14:42 20 Q. You do?

21 A. Yeah. Because we always had this justification

22 that it only had -- if it had anything to do with

23 trademarks or if it had anything to do with L. Ron

24 Hubbard -- if it started with L. Ron Hubbard we were

14:42 25 Author Services. Then we got into RTC. Well, if it had

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14:42 1 anything to do with trademarks that doesn't really
2 involve the Church. It involves RTC. Even if the
3 Church is a party.

4 So, you know, that's the kind of games we
14:42 5 played. That's the -- that's the way you -- that's the
6 way I would learn to handle testimony by Miscavige.

7 Q. I see. Is another word for what you're
8 describing "lying"?

9 A. Yeah.

14:42 10 Q. Okay. So let's go on back to this exhibit,
11 paragraph No'd. 9, To expel a person from Church
12 membership and thereby withdraw the protection and
13 availability of the Church's ethics and justice system
14 is the harshest penalty in the Scientology religion.

14:43 15 Now, that's true, isn't it?

16 A. That's a blatant lie.

17 Q. That's another lie.

18 Why did you tell that lie?

19 A. Because I didn't fully appreciate the -- the
14:43 20 truth of it.

21 Q. And you --

22 A. I -- I guess. I mean, I don't know. I was
23 saying what was supposed to be -- what -- what needed to
24 be said in that case, what was supposed to be being said
14:43 25 in that case.

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14:43 1 Q. You go on in that same paragraph 9 to say, Even
2 then, however, because Scientologists believe that man
3 is basically good, the door is always left open for that
4 person to return to Church membership. And that's true,
14:43 5 isn't it?

6 A. Sort of.

7 Q. Well, those are the A through E steps,
8 including A through E steps that you, yourself,
9 performed, correct?

14:43 10 A. Right. What it is, is the -- Well, I didn't do
11 the A through E. I did A through B or whatever, but
12 it's just, again, it's incomplete. A lot of this stuff
13 is lying through incomplete things.

14 I mean, you -- you -- it's like, oh, the

14:44 15 person gets to come -- he does not get to come back. He
16 gets to -- he -- he gets to prostrate himself and he
17 gets to become a slave again is what he gets to -- is
18 what he gets to do.

19 Q. So everybody who practices the Scientology
14:44 20 religion is a slave?

21 A. Did I say that?

22 Q. Is that your testimony?

23 A. Did I say that?

24 Q. I asked you that question, sir.

14:44 25 A. No. No.

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14:44 1 Q. So some people who practice Scientology
2 religion are not slaves?

3 A. On some level of another they are slaves, yes.

4 Q. Okay.

14:44 5 A. To answer your question, yeah.

6 Q. In paragraph No'd. 10 you say, Compared to
7 Scientology ethics and justice procedures lay justice
8 proceedings are in fact barbaric. You wrote that?

9 A. That's David Miscavige, yeah.

14:44 10 Q. He -- he wrote that --

11 A. He abso- --

12 Q. -- sentence, also?

13 A. Yeah. He wrote that.

14 Q. Okay. You remember the circumstance in which

14:44 15 he wrote that, you and he around the Word processor?

16 A. Those are -- that's just -- I just know those
17 are his words.

18 Q. Okay. And you just decided to include it in
19 your statement?

14:44 20 A. No. He decided to include it in my statement.

21 Q. Well, you signed it, right?

22 A. Right. But he --

23 Q. And you attested to its truth under penalty of
24 perjury, correct; you swore to the truth of the

14:45 25 statement?

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14:45 1 A. He decided to put it in the declaration. You
2 asked me that and, yeah, he decided.

3 Q. And you decided to sign it?

4 A. And I -- and I acquiesced to it --

14:45 5 Q. Okay. And you --

6 A. -- like a good soldier.

7 Q. -- you swore to it?

8 A. Like a good soldier.

9 Q. Okay. Like a good soldier you swore to it?

14:45 10 A. Yeah.

11 Q. Okay. So let's go on a little bit more.

12 Paragraph 28 at page 14 you went on to swear, The ethics
13 and justice system of Scientology then has honesty and
14 integrity as its underpinnings. Did you believe that to
14:45 15 be true?

16 A. At that time I did, yeah.

17 Q. Okay. So as of this time in 1991, it was your
18 view that the ethics and justice system was honest and
19 had integrity as its underpinning, correct?

14:45 20 A. Yeah. Ethics and justice system?

21 Q. Yeah.

22 A. Yeah.

23 Q. Okay. The justice system was a gradient one,
24 consisting of a series of actions which might be taken
14:46 25 as appropriate to ensure that ethical conduct was

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14:46 1 restored, right?

2 A. Where is this?

3 Q. I'm sorry. I should have told you.

4 At page 16 in the middle -- at the end of

14:46 5 paragraph 33.

6 A. Right. That is a policy. Thirty -- at the end

7 of 33?

8 Q. Yeah.

9 A. It does have punishment -- rather, its

14:46 10 purpose -- for this reason -- a gradient one -- Yeah,

11 yeah, yeah. So interesting, since you brought this up,

12 there is a policy called Scientology --

13 THE REPORTER: You're not to write on

14 exhibits, sir.

14:46 15 THE WITNESS: Oh, okay.

16 MR. DEIXLER: Oh, I'm sorry. Was he doing

17 that?

18 Q. (BY MR. DEIXLER) Please don't do that.

19 A. Since you brought that up -- gradients. There

14:46 20 is a -- a policy called ethics gradients, and it's in

21 that ethics book that one of your witnesses put on the

22 record, and you will note in there that expulsion is the

23 last ethics gradient. Okay? It's far beyond the

24 Committee of Evidence. Again, demonstrating that this

14:47 25 is a joke, that you think that you can get a Comm Ev

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14:47 1 about a refund. Once you ask for a refund, you're
2 expelled, you're out, you have no rights. That's in
3 that policy too. So, yeah, there was a gradient.
4 That's what that's referring to, this gradient. There's
14:47 5 like 31 gradient steps.

6 Q. All right. So paragraph -- on page 17,
7 paragraphs 37, 38 and 39 are your summary of the
8 Scientology justice system; is that fair? You can look
9 at it quickly. I'm going to call your attention --

14:47 10 A. Right.

11 Q. -- to paragraph --

12 A. That's the -- that's general subject matter. I
13 haven't --

14 Q. Right.

14:47 15 A. -- read it.

16 Q. Okay. Paragraph 39, you describe the Committee
17 of Evidence as a fact-finding body composed of impartial
18 persons properly convened by a convening authority which
19 hears evidence from persons it calls before it, arrives
14:47 20 at a finding and makes a full report and recommendation
21 to its convening authority for his or her action.

22 A. And that's a quote from a policy letter.

23 Q. And that you believe to be the policy that was
24 followed --

14:48 25 A. That was --

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14:48 1 Q. -- with regard to the Committee of Evidence,
2 correct?

3 A. No, I don't. I believe that that's what the
4 policy said and I put it in the affidavit.

14:48 5 Q. Okay. Did you -- did you think that in fact
6 that the practice was not to follow that policy?

7 A. I don't know what I thought. All I know is,
8 I'm quoting a policy letter; and you're trying to
9 attribute that to be my intent or my belief and I'm
14:48 10 telling you I'm just quoting a policy letter.

11 Q. I see. You have no idea whether you thought it
12 was true or not?

13 A. I don't know. You said I said whatever's said.
14 I'm just telling you I quoted a policy letter.

14:48 15 Q. When you go on in that same paragraph you say,
16 once the committee -- Oh, I'm sorry. Let me withdraw
17 it. Go further down.

18 Paragraph 40 you say, Scientologists can
19 and frequently do avail themselves of the Scientology
14:48 20 justice system as it is free, swift, sane, accurate and
21 based solely on getting to the truth.

22 A. Right.

23 Q. That was an important belief that you held at
24 the time, right?

14:48 25 A. Perhaps -- perhaps. I don't know. It's

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14:48 1 difficult for me to figure out what my frame of mind was
2 there. Though, like I said, it was very heavily
3 influenced by control.

4 Q. Right.

14:49 5 A. The technology.

6 Q. Sure. Paragraph 42 you go on to say in the
7 next to the last sentence, before the A through E steps,
8 Yet, even a person who has been declared to be a
9 suppressive and has been expelled from the Church,
14:49 10 however, is still afforded an opportunity to redeem
11 himself and to return to good standing; you see that?

12 A. Right. If you prostrate yourself and beg and
13 become mea culpa --

14 Q. And you --

14:49 15 A. -- mea culpa and you agree to worship David
16 Miscavige and Scientology leadership. See, again,
17 it's -- it's the omitted.

18 Q. Okay. So --

19 A. It's the omitted. So it's lie -- it is lying
14:49 20 by omission.

21 Q. Okay. So --

22 A. You're right.

23 Q. So the -- one of the A through E steps is you
24 have to pros- -- prostrate yourself and another step

14:49 25 is --

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14:49 1 A. All --

2 Q. -- that you --

3 A. All A --

4 Q. -- have to --

14:49 5 A. All of -- all A through E is in effect

6 prostration.

7 Q. Okay.

8 A. You have to belittle yourself and you have to

9 con- -- you have to do this -- this -- this business:

14:49 10 The public confession. You have to say I --

11 Q. A through E?

12 A. And you have to say -- you have to mock -- if

13 you don't have one, you have to make up a conspiracy

14 that you were involved in; because Hubbard was paranoid

14:50 15 and Miscavige is double paranoid.

16 Q. Okay. But -- but the document you held up

17 here, which is Exhibit No'd. 2 --

18 A. Is the --

19 Q. -- which is your --

14:50 20 A. -- Step B.

21 Q. -- public announcement --

22 A. It's Step B of the --

23 Q. Yeah. You didn't make that up. Those are

24 things you actually did, right?

14:50 25 A. No. David Miscavige made them up. David

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14:50 1 Miscavige -- We've already testified to this. David
2 Miscavige dictated this and I transcribed it into a
3 document.

4 Q. So no part of what is said in Exhibit No. 2 is

14:50 5 true, correct? That was all --

6 A. Do you need me to dissect it word by word? Do
7 you want me to do that?

8 Q. Yeah. Yeah. Tell me anything in there --

9 A. I'm not going to re- --

14:50 10 Q. -- that you know is false.

11 A. I'm not going to revisit this.

12 Q. Okay. You're --

13 A. It's all --

14 Q. You're declining --

14:50 15 A. It's all false.

16 Q. -- to answer? Okay.

17 A. No. I'm --

18 Q. Then answer.

19 A. It's all false.

14:50 20 Q. Every word?

21 A. The whole thing is. The -- the word -- It's

22 not my document. I'm going to put it that way. That is

23 not my document. David Miscavige created that document.

24 Q. Let me ask you to take a look at what we'll

14:51 25 number Exhibit No'd. 7 --

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14:51 1 MR. DEIXLER: Right?

2 (Exhibit No. 7 marked.)

3 Q. (BY MR. DEIXLER) -- which is a -- a

4 declaration of yours again in the Aznaran.

14:51 5 A. Does this need to be -- get marked?

6 (Indicating.)

7 Q. Yeah. Why don't you leave it with the court

8 reporter. She will get to it.

9 A. Okay.

14:51 10 Q. This is a declaration dated August 26th, 1991,

11 Mr. Rathbun, and confirm that that is your signature on

12 the 30th page.

13 A. Looks like it.

14 Q. And that falls directly below the statement

14:51 15 that you declare under penalty of perjury and the laws

16 of the State of California the foregoing is true and

17 correct; am I right about that?

18 A. Yeah.

19 Q. Okay. In this document at paragraph No. 4, on

14:51 20 page 3 -- have you got it in front of you? You say,

21 commenting upon Ms. Aznaran's allegations, She was well

22 aware that it was extremely difficult to defend such

23 allegations when plaintiff swore falsely in declarations

24 that Judges and Juries were prone to believe

14:52 25 out-of-context quotes from Scientology scriptures and
to

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14:52 1 accept, quote, state of mind testimony, closed quote.

2 A. Uh-huh.

3 Q. Did you believe that to be true?

4 A. Then who knows? I don't know.

14:52 5 Q. You don't know.

6 A. I was a mixed up guy back then and I was --

7 Q. Yeah.

8 A. -- under the gun. And I don't even know if I

9 wrote that. It might have been Miscavige or a lawyer.

14:52 10 Q. Well, your state of mind is that you were a

11 mixed up guy at the time?

12 A. Yeah. Like anything that's for Scientology is

13 good. Everything that's bad -- against Scientology is

14 bad. So, therefore, you know, you got to twist things

14:52 15 in such a way as to do anything.

16 David Miscavige was a defendant in this

17 lawsuit. Okay? It was the biggest crisis in

18 Scientology at this date. Getting him out of it was the

19 highest priority in all of Scientology; and so my state

14:53 20 of mind was whatever he wants me to say or the lawyers

21 want me to say to help that process, I'll do it.

22 Q. Okay. So your state of mind you thought was

23 really important, but there you were criticizing

24 Ms. Aznaran's use of her state of mind, right; is that

14:53 25 fair?

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14:53 1 A. Yeah. It's funny how things change. Because
2 that's what you're doing. You guys are going in to get
3 these out-of-context quotes --

4 Q. So let's go on --

14:53 5 A. -- from everywhere and then try to make a --
6 and try to make a big deal out of them. It's amazing
7 how -- how you guys have gone down the dwindling spiral.

8 MR. DEIXLER: Okay. Move to strike that
9 as nonresponsive.

14:53 10 Q. (BY MR. DEIXLER) Let's move on now to page 4,
11 paragraph No. 5 where you say, starting at line
12 No'd. 8, I therefore take this opportunity to inform
13 this Court of the truth about Scientology ethics and
14 justice. My testimony is the same as could be given
14:53 15 by any of the millions of satisfied Scientologists
16 with respect to their religion in general and its
17 ethics and justice codes in particular. That
18 statement true or false at the time you made it?

19 A. False in many respects.

14:54 20 Q. And -- and you knew it to be false, right?

21 A. I don't know. I don't know whether I did or
22 not.

23 Q. Paragraph 6 goes on, again, with you saying
24 that fair game has been expressly canceled, right?

14:54 25 A. Right.

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14:54 1 Q. And that was your attempt to mislead the Court
2 by wordsmithing the language; is that fair?

3 A. I don't even know if this is my language.

4 Q. Well, you signed the declaration and swore to
14:54 5 it, sir, right?

6 A. Right. But just like you --

7 Q. And you --

8 A. Just like you guys do up declarations for
9 people to sign, lawyers did that in Scientology. And,
14:54 10 like I said, David Miscavige was in the editing process
11 on every declaration, let alone -- let alone mine,
12 everyone that was at any level of Scientology. He would
13 change the janitor's declaration if need be.

14 Q. But you swore to its truth, correct?

14:54 15 A. Oh, yeah. Absolutely.

16 Q. Okay. Fine. Let's go to paragraph 7 and see
17 what has now become familiar language. The Scientology
18 ethics and justice system is a privilege and benefit for
19 Scientologists. Scientologists can and do avail
14:55 20 themselves of these Scientology ethics and justice
21 system as it is free of charge, swift, sane, accurate
22 and based solely on getting to the truth.

23 A. What's that got to do with these refunds? I
24 don't --

14:55 25 Q. The -- the -- that statement --

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14:55 1 A. I -- I don't --

2 Q. -- was --

3 A. -- get this.

4 Q. -- was known to --

14:55 5 A. I don't get this.

6 Q. -- you to be false at the time you signed this
7 declaration, sir?

8 A. I don't -- I don't know. It was twenty years
9 ago. I don't know.

14:55 10 Q. You mean it might --

11 A. I've already --

12 Q. -- have been false?

13 A. I've already explained the context. The
14 context -- And I've said it sixteen times and I'll say
14:55 15 it thirty-two more times if you want to go through
every

16 paragraph, the state of mind was the same, the
17 motivation was the same, and the reality of it is -- is
18 questionable for the most part.

19 A lot of the things in here, I see it
14:55 20 180-degrees differently now that I'm not under the
21 influence of the organization and Scientology.

22 Q. Are you saying at the time you signed the
23 declarations asserting the truth of the statements that
24 were contained here that you didn't think any of those
14:56 25 statements were false because of your state of mind?

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14:56 1 A. Yeah. It's one of the first things you learn
2 in Scientology. If it's true for -- it's you're
3 subjectivity. Your subjectivity becomes objectivity.
4 Q. Uh-huh.

14:56 5 A. Bert, that you actually -- this is part of
6 the -- this is part of the process that you go through.
7 It's -- it's part of the code of honor (sic) -- code
8 of honor. It's -- it's the definition of personal
9 integrity is that what is true for you is true for you,
14:56 10 and there's no other two ways about it. Okay?
11 And if you listen to the whole lecture on
12 the subject, which you're required to do, he very
13 convincingly sort of gets you to sign on to believing as
14 objective truth that which is your subjective truth,
14:56 15 and, of course, your subjectivity is being manipulated
16 continuously.

17 So to answer your question, for the most
18 part I probably did believe what I was saying was true
19 then. I look at it twenty -- thirty years later outside
14:57 20 of the context of that and I see things pretty much
21 180-degrees polar opposite.

22 Q. Do you feel responsible for having misled
23 Courts on numerous occasions by giving statements that
24 you now are sure are lies?

14:57 25 A. More so than any one of the many dozens of your

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14:57 1 client members who continue to do it.

2 Q. Yeah. So your answer is yes?

3 A. Unlike your client, yes.

4 Q. Okay. So let's take a look at -- remember, the

14:57 5 Mayo case?

6 MR. DEIXLER: Okay. Is that eight.

7 (Exhibit No. 8 marked.)

8 Q. (BY MR. DEIXLER) Let's take a look at the

9 declaration which you executed in the Mayo case, and

14:57 10 that's a document -- look to the last page, if you

11 will.

12 A. (Witness complies.)

13 Q. Dated the 29th of January 1992, and that's your

14 signature --

14:58 15 A. Uh-huh.

16 Q. -- correct?

17 A. Yeah.

18 Q. And that's you swearing under penalty of

19 perjury that the declaration statements are true; is

14:58 20 that correct?

21 A. Correct.

22 Q. And while we could go through all of the

23 statements, you're quite sure, based upon what we've

24 seen together previously, that this is filled with false

14:58 25 statements and misrepresentations, correct?

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14:58 1 A. And the Court actually recognized that;
2 \$2.7 million in sanctions were awarded to the
3 plaintiff/counter-defendant, counter-defendant --
4 defendant/counter-plaintiff for, you know, following
14:58 5 through with this whole sort of story line.

6 Q. Yeah. So in the Mayo case, Exhibit No.d 8, you
7 would agree with me that this declaration is filled with
8 falsehoods, correct?

9 A. Probably.

14:58 10 Q. Well, you want to argue --

11 A. If I wrote it back --

12 Q. -- you can look at them.

13 A. If I wrote it back then, I'm sure it is.

14 Q. Okay. So -- so as of January of 1992 you were

14:59 15 submitting false declarations you now will agree,
16 correct?

17 A. Well, I was der- -- at the behest of David

18 Miscavige, yeah.

19 Q. Mr. -- Mr. Miscavige personally sat down with

14:59 20 you and went through the Mayo declaration, Exhibit 8,
21 line by line?

22 A. I already told you how that works.

23 Q. I'm asking about the Mayo declaration. Did he

24 go through it line by line with you?

14:59 25 A. I don't -- I don't specifically recall. He

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14:59 1 could have written it. Whatever happened, he had to
2 approve it. It cannot get filed until he approves it.

3 Q. Okay.

4 A. Nothing -- nothing in that case was able to be
14:59 5 filed unless he approved it. And he ordered a lot of
6 perjury in that case.

7 Q. He ordered perjury?

8 A. Yes.

9 Q. Okay. And -- and he said, above all, sir,
14:59 10 words to the effect that I want you to tell lies?

11 A. Where did you get that from?

12 Q. Well, that's ordering perjury.

13 A. Okay.

14 Q. What did he say? Tell me what he said to -- in
14:59 15 the Mayo case --

16 A. He told --

17 Q. -- that ordered you to lie?

18 A. He told -- he didn't. I didn't say he ordered
19 me to lie.

14:59 20 Q. Oh. Which case --

21 A. He ordered -- he ordered Warren McShane to lie.

22 And that's why he appointed Warren McShane to succeed me
23 as the president on the corporate board of RTC because
24 nobody could effectively and more comfortably lie than
15:00 25 Warren McShane.

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15:00 1 Q. Okay.

2 A. And he -- he ordered him -- he told him exactly
3 what to say in -- in deposition and in declarations in
4 that case.

15:00 5 Q. Okay.

6 A. And like I said, it resulted in \$2.7 million in
7 sanctions.

8 Q. Okay.

9 MR. DEIXLER: So I move to strike --

15:00 10 A. That's how believable it was.

11 MR. DEIXLER: Yeah. I move to strike that
12 as nonresponsive.

13 Q. (BY MR. DEIXLER) Stop.

14 A. Well, then stop asking me to tell you these --

15:00 15 Q. Did --

16 A. -- things.

17 Q. Did -- did --

18 A. Jesus, Bert.

19 Q. Did Mr. Miscavige ever tell you to lie under

15:00 20 oath in any of the declarations that we have marked as
21 exhibits here?

22 A. Yes.

23 Q. Okay. Which -- which one? Pick the exhibit up
24 and tell me which --

15:00 25 A. I can't tell you which ones specifically, but

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15:00 1 he told me what to say. Marty can say this, this, this,
2 this and this, and it's got to be in my declaration.

3 Just like he dictates what goes in my confession and
4 it's got to go in my confession.

15:00 5 Q. Uh-huh. And so --

6 A. That's the way David Miscavige operates day in
7 and day out.

8 Q. So let me make sure I fully appreciate what
9 you're saying. We've just looked at the Mayo

15:01 10 declaration, Exhibit 8, it's 28 pages.

11 A. Uh-huh.

12 Q. Is your testimony today under oath that

13 Mr. Miscavige dictated all 28 pages?

14 A. No.

15:01 15 Q. How many pages did he dictate?

16 A. I don't know. He -- he approved. He was the
17 final author. So, Bert, let me put it this way. I
18 could -- I could write that declaration and it doesn't
19 get filed. Only David Miscavige could say what got
15:01 20 filed in the Court.

21 Q. Okay.

22 A. Do you understand? He didn't need my
23 signature. You didn't need my signature for the lawyers
24 to be given the go-ahead to file any papers. You needed
15:01 25 David Miscavige's initial before you could file

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15:01 1 anything.

2 Q. I'm sorry. Doesn't the declaration require

3 that the declarant sign it?

4 Did you understand that was why you were

15:01 5 being asked to sign the document?

6 A. You -- you're arguing with me again.

7 MR. BABBITT: Okay. It's four o'clock

8 here, guys. I'm making a motion to terminate or limit

9 unless you can tell me that you are going to be done in

15:02 10 the next half hour. Because then I --

11 MR. DEIXLER: Yeah. I think --

12 MR. BABBITT: -- in a half hour, it'll be

13 six hours. We're limited to seven plus the thirty

14 minutes for lunch. I need to have at least an hour and

15:02 15 I'm not going past that. So it's up to you. If you --

16 if you can tell me you're going to be done in a half an

17 hour, that's fine. Otherwise, let's go ahead and try

18 and patch in either Judge Whittemore or Judge McCoun.

19 MR. DEIXLER: Okay. Let's ask the court

15:02 20 reporter. Madam Reporter, could tell us how much time

21 we've been on the record in this case?

22 THE REPORTER: On the record approximately

23 four hours and forty minutes.

24 MR. DEIXLER: Okay. All right. Four

15:02 25 hours and forty minutes.

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15:02 1 MR. BABBITT: How is that possible? We
2 started 10:00 a.m.

3 MR. DEIXLER: Well, we've had innumerable
4 breaks. So if you want --

15:02 5 THE WITNESS: What do you mean innumerable
6 breaks? We haven't had innumerable breaks.

7 MR. DEIXLER: If you want we should try to
8 go forward.

9 MR. BABBITT: We've been stretched to five
15:03 10 minutes and a half an hour for lunch. What -- how on
11 earth did he -- we end up with four hours and forty
12 minutes.

13 MR. DEIXLER: Well, I'm sorry if you have
14 no confidence in the court reporter. I do. So -- so we
15:03 15 can deal with it any -- any which way.
16 My suggestion is that we keep -- we keep
17 going with this examination and I'll do all I can to
18 leave you an hour, or, alternatively, we can give you an
19 hour some other time that's mutually convenient for you
15:03 20 and Mr. Rathbun and the representatives of our clients.
21 So it's really up to you. I would prefer --

22 MR. BABBITT: Well, as I said, another
23 half hour and then I'm going to call the Judge. If it's
24 four hours and forty minutes that would be five hours
15:03 25 and twenty minutes. There's two simple issues in this

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15:03 1 case. I -- I don't think it should go beyond that.

2 I'll make the motion in a half an hour unless you --

3 unless you can finish by then.

4 MR. DEIXLER: Okay. You do whatever you

15:03 5 think is right. Absolutely.

6 MR. BABBITT: (Inaudible) phone number and

7 Judge McCoun's phone number if you need it.

8 MR. DEIXLER: Okay. We'll -- we'll see

9 where we are; and you should do what you think is right

15:03 10 and I will do what I -- what I think is right.

11 MR. BABBITT: Okay. I'm just telling you,

12 you know, if you want to leave it alone, that's fine.

13 Otherwise -- I'll let you go ahead.

14 MR. DEIXLER: I hope -- I hope all of this

15:04 15 chatter you're not counting as against my time since
I'm

16 prepared to go forward and you're interrupting it, so...

17 THE WITNESS: Can you get going?

18 MR. BABBITT: What?

19 MR. DEIXLER: All right. We'll take a

15:04 20 break. Let's go off the record. I'm not going to be

21 harassed. Thank you. Be back in about five minutes.

22 THE WITNESS: Who's harassing you?

23 THE VIDEOGRAPHER: The time is 3:04.

24 THE WITNESS: Who's harassing you, pray

15:04 25 tell?

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15:04 1 THE VIDEOGRAPHER: We're off the record.

2 (Short break taken and

3 Exhibit No. 9 marked.)

4 THE VIDEOGRAPHER: The time is 3:12, we're

15:12 5 back on the record.

6 Q. (BY MR. DEIXLER) Mr. Rathbun, I had placed

7 before you during the break a document which is marked

8 as Exhibit No'd. 9. It is the St. Petersburg Times

9 article, June 22nd, 2009, reflecting the interview

15:12 10 that you gave to Joe Childs and Tom Tobin of that

11 newspaper, and I have particularly tabbed a section of

12 the article entitled Destruction of Evidence. In that

13 portion, about halfway through that section --

14 A. Uh-huh.

15:12 15 Q. -- there are some quotes. Let me read them to

16 you and see whether you told that to Mr. Childs and

17 Mr. Tobin. Rath -- Rathbun concluded the notes had to

18 go, quote. I said, comma, quote, Lose 'em, closed

19 quote, and walked out of the room, closed quote, he

15:13 20 recalled, adding that the decision to destroy the

21 records was his own.

22 Quote, Nobody told me to do it and I did

23 it, quote, he said. The truth is the truth and right

24 now I'm going to confession; and I really think it's

15:13 25 something that hurt the Church more than it hurt the

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15:13 1 people that were trying to get recompense, closed quote.

2 Sir, earlier today you testified that you

3 had been instructed to destroy those notes. Were you

4 lying when you said this to the St. Petersburg Times or

15:13 5 were you lying under oath?

6 MR. BABBITT: Object to the form of the

7 question.

8 A. Neither.

9 Q. (BY MR. DEIXLER) Neither?

15:13 10 A. Neither. I was telling the truth on both of

11 them.

12 Q. Okay.

13 A. On this one I explicitly and -- and

14 intentionally took ownership for it myself because I

15:14 15 didn't want to cause anybody harm. I was -- I did tell

16 them to lose it and -- and I've explained in other

17 contexts only because Scientology tried to make a big

18 deal out of it, like, Hey, he's an admitted perjurer.

19 Like these guys do this on a day -- daily basis day in

15:14 20 and day out, did I then try to give it more context

21 and -- and talk about Miscavige's involvement leading up

22 to it, which was essentially to make sure the folders

23 are okay, which is code in Scientology for get rid of

24 anything that shouldn't be in there.

15:14 25 Q. Did you say to these reporters, Nobody told me

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15:14 1 to do it and I did it?

2 A. Yes.

3 Q. Yes or no?

4 A. Yes.

15:14 5 Q. Okay.

6 A. Yes.

7 Q. And that was false?

8 A. Well, not necessarily. Literally it's true.

9 He didn't say, Lose those documents. He said, You make

15:15 10 sure that there's -- those pieces in the folders are

11 okay and there's nothing in there that could be

12 damaging.

13 Q. Now, let me make sure I understand. Who said

14 that?

15:15 15 A. David.

16 Q. Was that Mr. Miscavige?

17 A. David Miscavige.

18 Q. Okay.

19 A. Yeah.

15:15 20 Q. I thought it was Elliot Abelson who told you to

21 destroy the document?

22 A. Well, that's because you're trying to take

23 things out of context and pin me down to the little

24 statements. You never allow me to give context or the

15:15 25 statement.

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15:15 1 David Miscavige sent me to OSA Int to
2 review the folders because there was discussion about
3 them being fault -- being produced. He said, God
4 dammit, you'd better make sure there's not a -- and I --
15:15 5 I can't repeat the -- the guy's language because it's
6 just so atrocious. It's just so filthy, but he uttered
7 a bunch of curse words and said, You'd better make sure
8 there's not a God damn thing in there that can hurt us.
9 You make sure they're okay.
15:15 10 And so when I went there -- there, we're
11 talking about the folders, we're talking about, you
12 know, manila folders that are all the way full like this
13 that go the length of this table twice. (Indicating.)
14 And so it was a lengthy review process that went on over
15:16 15 some many hours, and it was narrowed down to these few
16 documents and I was complying with his order that they
17 were okay to produce.
18 Q. Didn't Mr. Abelson tell you destroy it
19 according to your testimony this morning?
15:16 20 A. He didn't tell me to. He advised that they be
21 destroyed.
22 Q. When did Mr. Abelson do that?
23 A. During that review of the documents and them
24 being pinned down to the ones that were of concern.
15:16 25 Q. So let me see if I understand what your

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15:16 1 testimony is here.

2 A. Uh-huh.

3 Q. You were given a general directive from

4 Mr. Miscavige to make sure there was nothing harmful in

15:16 5 any document that was produced. You found some

6 documents that you thought were harmful and then

7 Mr. Abelson, the lawyer, specifically told you to

8 destroy them or cover them up in some way?

9 A. I didn't say that. See, you just keep twisting

15:16 10 my words. I said he advised that they be gotten rid of.

11 Q. What does "advise" mean? What words did he

12 speak?

13 A. Well, he doesn't order me. I'm -- he's --

14 he's -- he's supposed to -- he's the consigliere.

15:16 15 He's -- doesn't order me. He advises.

16 Q. And tell me what he said. What -- what words

17 that he used that caused you to --

18 A. I already --

19 Q. -- take these --

15:17 20 A. I already --

21 Q. -- documents and --

22 A. I already --

23 Q. -- destroy --

24 A. -- said what they --

15:17 25 Q. -- them.

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15:17 1 A. -- were. He advised -- I don't know what his
2 exact words were. He advised that they be gotten rid
3 of, and I gave -- and I then gave -- and then this, what
4 I said to the St. Pete Times is literally true. I told
15:17 5 Lynn Farney to lose them.

6 Q. You don't recall anything more specific about
7 what Mr. Abelson said to you upon the occasion of your
8 finding of these documents; is that true?

9 A. I don't remember his exact words.

15:17 10 Q. Okay. You don't remember anything else that he
11 said, whether they were the exact words or the general
12 substance, right?

13 A. I don't remember his words.

14 Q. Okay. Now, can we agree that as of
15:18 15 January 2004 you stopped performing the duties of
16 Inspector General of RTC?

17 A. Give me the date.

18 Q. January of 2004.

19 A. No. No. I mean, with the exception of -- of
15:18 20 having stood up to Miscavige is really -- if you really
21 take the gist of what Hubbard -- you know, some of his
22 more broad things about RTC's purpose and the inspector
23 general's purpose, aside from -- from that -- that --
24 that was -- there was nothing more incumbent upon the

15:18 25 Inspector General of RTC to do than to stand up to a

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15:18 1 bully like that.

2 (Exhibit No. 10 marked.)

3 Q. (BY MR. DEIXLER) Let me mark as Exhibit

4 No. 10 a declaration of Mark Rathbun dated

15:18 5 December 9th, 2013, and I call your attention

6 specifically to the paragraph No'd. 2, but, first,

7 tell me whether this is a document that you signed,

8 sir.

9 A. Not only did I sign it. I prepared every word

15:19 10 of it.

11 Q. And you declared under penalty of perjury that

12 it was true and correct; is that right?

13 A. That is correct.

14 Q. In paragraph No'd. 2 you swore to -- this is

15:19 15 filed in a Texas court, correct?

16 A. Yes.

17 Q. You swore to the Texas court, I held the post

18 of Inspector General of RTC, a position answerable only

19 to Captain David Miscavige, Chairman of the Board RTC,

15:19 20 from 1997 until I left the Sea Org. In fact it wasn't

21 until the end of January 2004 that I stopped performing

22 the duties of Inspector General RTC. Was that a false

23 statement that you made under oath to the Texas court?

24 A. No.

15:19 25 Q. Did you in fact stop performing the duties of

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15:19 1 Inspector General of RTC?

2 A. Everything except what I've already told you.

3 I keep giving you the exception and you keep wanting to

4 make a federal case out of it. The exception was that

15:20 5 I, after that, stood up to David Miscavige, and the

6 yellow-bellied coward didn't have the nuts to even

7 communicate with me.

8 Q. I'm sorry, sir. I don't quite understand.

9 Did you or did you not stop performing the

15:20 10 duties of Inspector General of RTC at --

11 A. I --

12 Q. -- the end of --

13 A. You --

14 Q. -- January 2004?

15:20 15 A. You -- you -- you've asked --

16 Q. Yes or a no?

17 A. You've asked this on numerous occasions and

18 I've answered it, and I --

19 Q. I'm sorry. I don't believe you have. So if

15:20 20 you could just answer that yes or no. Did you at the

21 end of --

22 A. Yes. With the exception that's been noted

23 probably twelve times in this deposition.

24 Q. So this you would agree this portion of your

15:20 25 declaration is incomplete if not inaccurate, correct?

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15:20 1 A. No. Incomplete.

2 Q. Incomplete?

3 A. It has nothing to do with inaccurate.

4 Q. Now, at the time --

15:20 5 A. It's incomplete.

6 Q. -- you signed this declaration --

7 A. This declaration --

8 Q. Sir --

9 A. -- could have been and was at one time probably

15:20 10 three times this length and it had to be cut down for
11 practical purposes.

12 Q. You -- you told us just a moment ago that you
13 wrote every word here, correct?

14 A. Isn't that what I just told -- Yeah. That's

15:21 15 exactly --

16 Q. Correct?

17 A. -- what I told you.

18 Q. Okay.

19 A. Yeah.

15:21 20 Q. I just want to make sure.

21 A. Why do we have to --

22 Q. And then --

23 A. -- repeat everything? I don't get it.

24 Q. And then by -- by December 9th, 2013, whatever

15:21 25 oppressive mind issues that you had faced as a result
of

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15:21 1 being in the Church had gone, you could think clearly;
2 is that true?

3 A. Correct.

4 Q. Okay. And so this statement that you made that
15:21 5 was incomplete was intentionally incomplete?

6 A. Yes.

7 Q. Okay. And that was designed to mislead the
8 Texas court, correct?

9 A. No. I just -- I -- I tried to explain it to
15:21 10 you, but you just got to be Perry Mason.

11 Listen, it was about three times the
12 length of what it needed to be for the Court. The Court
13 only has so much attention span. There's so many -- so
14 many things it can do. I could write a book. In fact
15:21 15 I've written three books on Scientology Mr. Deixler. So
16 it had to be cut down. This was a very much expanded
17 edition of what went down in those final days,
18 initially, but Counsel advised that we had to cut this
19 way back for purposes of -- of not overwhelming the
15:22 20 Court with facts.

21 Q. Let me pursue with you a little bit about your
22 contention that you were the second in command to
23 Mr. Miscavige.

24 A. Where -- Can you refer me to that contention?

15:23 25 Q. I will in a moment.

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15:23 1 Was it your belief that you were the
2 second in command in all of the Church of Scientology to
3 Mr. Miscavige?

4 MR. DEIXLER: We're to eleven?

15:23 5 A. At certain -- at certain periods I think that's
6 a fair characterization.

7 (Exhibit No. 11 marked.)

8 Q. (BY MR. DEIXLER) It's a fair
9 characterization?

15:23 10 A. Uh-huh.

11 Q. What is that --

12 A. But my characterization pretty much
13 consistently has been I answered to no one other than
14 David Miscavige from January 1982 until the day I left.

15:23 15 Q. Okay.

16 A. And that is one hundred percent true. So you
17 can characterize that as second in command, I mean,
18 there's nobody in the chain of command. So in that
19 respect, you know, you could say, yeah, that -- that
15:23 20 would -- that would hold true throughout it.

21 Q. Okay. Well, you've described to us in the
22 morning that you had a series of nominal superiors over
23 the years; did I understand and remember that correctly?

24 A. Right.

15:23 25 Q. Okay. And your characterization of them is

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15:23 1 nominal. Is there an org chart or some other indicator
2 that would identify you as the number two person in the
3 Church of Scientology or in any particular organization?

4 A. Yeah.

15:24 5 Q. Okay. And -- and what would that --

6 A. The Command Channels booklet.

7 Q. Okay. And so the Command Channels booklet for
8 the period 1982 through -- through when would identify
9 you as second in command?

15:24 10 A. Well, there's only one Command Channels book.
11 It was put out between '87 -- probably in '87 and it was
12 continuously published for the next three years during
13 that brief window when Scient- -- when there was some
14 form of organization held.

15:24 15 And the Command Channels booklet was
16 worked on by myself and other people in RTC and
17 authorized ultimately for publication by Miscavige and
18 ordered by him that it be widely publicized amongst
19 Scientologists to understand the command structure,
15:24 20 and -- and so that's really the only time that they
21 really ever gave an explicit command chart that was ever
22 published broadly like that. And I think that pretty
23 much would give you the conclusion that the inspector
24 general is second in command.

15:25 25 Q. Okay. So after the -- it was published '87,

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15:25 1 '88, '89 and '90 and never again, to your knowledge?

2 A. I don't know. I think it was published -- I

3 don't know. I'm just telling you when I knew for a fact

4 it was published.

15:25 5 Q. So from -- would it be fair to say that at

6 least from the period from 1991 to 2004 you know of no

7 writing which would identify you as the No. 2 in command

8 of the Church of Scientology?

9 A. I don't know. Just things were put in those --

15:25 10 those terms. There was many things that referred to me

11 as inspector general.

12 Q. I'm focused on the rank you held that is second

13 in command to Mr. Miscavige. Other than --

14 A. No. I'm just describing. That's just a

15:25 15 description of what the inspector general is.

16 Q. Okay. So in '87, '88, '89, '90 you were

17 identified in this Command Channel book, which was

18 published, as second in command --

19 A. Oh, no, no, no. You asked --

15:26 20 Q. Oh.

21 A. -- me if there's any organization chart that

22 would -- that would establish that, and I said that

23 would because it shows the inspector general. I don't

24 think there was names published in that booklet.

15:26 25 Q. Oh.

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15:26 1 A. And the booklet was made in '87 through '90 and
2 it was all based on what L. Hubbard said the structure
3 should be. It was a -- it -- This went on for months to
4 get this all summarized into a booklet with charts and
15:26 5 the whole thing, and it shows the inspector general is
6 directly under the chairman of the board and it goes
7 without -- and it -- and it's unrefuted that I was
8 inspector general from '80 -- '97 until I departed in
9 '04.

15:26 10 Q. Okay. So let me be clear. You know of no
11 document that says you, Mark "Marty" Rathbun, are the
12 No. 2 person in the --

13 A. There's --

14 Q. -- Church of Scient-

15:26 15 A. -- hundreds of documents in the Church.

16 Q. That say that?

17 A. Yeah.

18 Q. Okay. And can you describe so I'll be able to
19 look for them.

15:26 20 A. That say that I'm inspector general?

21 Q. Yeah. No, no, no. I'm not saying inspector
22 general. I'm asking you if --

23 A. Oh, well, no, no, no.

24 Q. -- you're ranked --

15:26 25 A. No.

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15:26 1 Q. -- No. 2?

2 A. No. We don't use that terminology in the

3 Church. Did you?

4 Q. You don't say No. 2?

15:27 5 A. No. 2 is inspector general.

6 Q. Okay. And so anything that says inspector

7 general, you say, equates to your being No. 2 in the

8 Church?

9 A. Basically, yeah.

15:27 10 Q. What do you mean "basically"?

11 A. What does "basically" mean?

12 Q. Well, it was your word, so I want to make sure.

13 A. Fundamentally.

14 Q. Okay.

15:27 15 A. In essence.

16 Q. Okay.

17 A. In sum and substance.

18 Q. Okay.

19 A. Does that communicate it to you?

15:27 20 Q. Well, not exactly.

21 Are there -- sum and substance or

22 basically. Are there examples in which somebody who

23 was -- held the rank of inspector general would not be

24 No. 2 in command under Mr. Miscavige?

15:27 25 A. Yes.

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15:27 1 Q. Okay. When?

2 A. During the --

3 Q. Who was that?

4 A. During the Author Services era between 1982 and

15:27 5 1987 when we took over physically RTC. Me, David

6 Miscavige and two other guys. We had a physical coup

7 and ousted Aznaran and her compatriots, and took over

8 and Miscavige assumed the post of chairman of the board.

9 And so back then there was an inspector

15:28 10 general, but there was a whole organization above RTC

11 which was Author Services which I was a part of. RTC

12 wasn't allowed to breathe on anything on legal without

13 clearing it with me as the executive -- legal executive

14 of Author Services, by order of David Miscavige, who was

15:28 15 chairman of the board, Author Services. So during that

16 period up until '87, no, I -- IG was not second in

17 command.

18 Q. But from '82 to '87, notwithstanding the fact

19 that you were not inspector general, you were still the

15:28 20 No. 2 in the Church of Scientology beneath

21 Mr. Miscavige?

22 A. No. Absolutely not.

23 Q. No way, huh?

24 A. No.

15:28 25 Q. Okay. Let me show you Exhibit No'd. 11. Oh, I

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15:28 1 should ask you one other question. You've been
2 recognized for your work by the award of a medal from
3 L. Ron Hubbard; is that correct?

4 A. Uh-huh.

15:28 5 Q. Yes?

6 A. (Nods head.)

7 Q. When did Mr. Hubbard present that award to you?

8 A. David Miscavige presented it to me.

9 Q. Oh, it wasn't Mr. Hubbard?

15:29 10 A. No.

11 Q. Okay.

12 A. I mean, no, it was Hubbard. It was -- he's --

13 Okay. You're familiar -- David Miscavige got it from

14 Pat Broeker. David Miscavige -- you -- you ask the

15:29 15 question, did you ever see David -- L. Ron Hubbard.

16 David Miscavige never saw L. Ron Hubbard since 1978,

17 '79. Okay? In fact --

18 Q. Actually I wasn't asking that question. I was

19 asking whether --

15:29 20 A. Yeah, you were.

21 Q. -- whether --

22 A. You were. That's exactly what you're asking.

23 You're playing word games about did I know that L. Ron

24 Hubbard -- No. David Miscavige was the messenger who

15:29 25 went to Pat Broeker, and that was the communication
line

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15:29 1 to L. Ron Hubbard for the last seven years of his life;
2 and nobody beyond that -- beyond Pat Broeker and any
3 Broeker saw L. Ron Hubbard between 1979, 1980 and 1986
4 when he died, including David Miscavige. Okay?

15:29 5 So Pat Broeker relayed the message that
6 L. Ron Hubbard was making this -- this -- bestowing this
7 honor on me and David Miscavige, and we received them at
8 a Sea Org ceremony.

9 In fact I don't think David Miscavige did
15:30 10 give it to me. It was whoever was the master of
11 ceremonies at that ceremony at the Int base in 1985. I
12 can't remember if that would have been another
13 Scientol- -- another Hubbard messenger.

14 Q. Sure. Let me ask you to take a look at what
15:30 15 I've marked as Exhibit No. 11. It's an affidavit of
16 Mark Rathbun filed or signed, I guess, the 4th of
17 September 2013.

18 A. Yes.

19 Q. And that's your signature, correct, on the --

15:30 20 A. Yes.

21 Q. -- last page?

22 A. Yes.

23 Q. And that was filed in -- in a Comal County,
24 Texas court?

15:30 25 A. Comal, yeah.

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15:30 1 Q. Okay. And let me call your attention to the
2 first numbered paragraph --

3 A. Uh-huh.

4 Q. -- where you say, From 1982 to 2004 I answered
15:31 5 directly to Mr. Miscavige.

6 A. Uh-huh.

7 Q. As Inspector General of Religious Technology
8 Center, I was Mr. Miscavige's second in command --

9 A. Uh-huh.

15:31 10 Q. -- right?

11 And so it was the case that continuously
12 that when you were inspector general you were
13 Mr. Miscavige's second in command?

14 A. Correct.

15:31 15 Q. Okay. Now, you have previously explained to us
16 that you were on the Sea Winds in '93 and '95?

17 A. Free Winds.

18 Q. Free Winds. I'm sorry. Free Winds in '93 and
19 '95. While you were at sea in the Caribbean were you
15:31 20 still second in command in your mind?

21 A. I wasn't inspector general either.

22 Q. Okay.

23 A. So it doesn't follow from your question.

24 Q. Well, it says from 1982 to 2004.

15:31 25 A. I answered directly to Mr. Miscavige --

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15:31 1 Q. I see.

2 A. -- period. Do you understand a period?

3 Q. I see.

4 A. Period means end of thought.

15:31 5 Q. Okay.

6 A. Okay.

7 Q. And so --

8 A. New thought. As Inspector General of the

9 Religious Technology Center I was Mr. Miscavige's second

15:31 10 in command.

11 Q. Okay. And that was from --

12 A. 1987 to 2004.

13 Q. -- 1987 to 2004?

14 A. Correct.

15:32 15 Q. So you were on the boat from '93 to '95.

16 That's within the '87 to 2004 period, right?

17 A. No. Ninety-seven through 2004.

18 Q. Oh, I see.

19 A. You're not listening.

15:32 20 Q. I guess not. So you were inspector general

21 from '97 to 2004, and until '97 you weren't the second

22 person in the Church of Scientology, correct, second in

23 command?

24 A. Before 1997 I was not second in command.

15:32 25 Q. Okay. So --

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15:32 1 A. That's correct.

2 Q. -- starting in --

3 A. That's correct.

4 Q. -- 1997 for the first time you became second in

15:32 5 command and you continued that through 2004, correct?

6 A. Correct.

7 Q. Okay. And that position continued

8 notwithstanding the fact that you were -- to use your

9 word -- in "The Hole" in February of 2004?

15:32 10 A. Yeah. I explained that in the declaration. I

11 mean, yeah, I got assigned to "The Hole." I got put --

12 I got put in prison.

13 Q. And you were still the second in command but in

14 prison?

15:33 15 A. Well, like I said, he just never -- he never

16 went through these niceties of going through -- you

17 know, you're -- under Scientology policy if you're

18 permanently posted you're supposed to get a -- you --

19 you can't be taken off post without a Committee of

15:33 20 Evidence.

21 You keep talking about this Committee of

22 Evidence business, right? There was no Committee of

23 Evidence. There was no personnel order that took me off

24 post. There was no personnel order that took any of

15:33 25 these people off post who were in there.

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15:33 1 Mike Rinder can tell you. He would be
2 off -- he would be in "The Hole" and then -- for years
3 at a time, and then suddenly the BBC would be a problem
4 and he would be out there as a director of CSI again
15:33 5 doing, you know, it's whatever Miscavige ordered.

6 Q. Did -- did you ever hold the title --

7 A. So I don't see --

8 Q. I'm sorry.

9 A. So I don't -- I don't -- you don't see the

15:33 10 inconsistency here --

11 Q. Okay.

12 A. -- that you're wanting to reconcile. I think
13 you're just playing word games to try to discredit me.

14 Q. Right. And so -- well, did you ever hold the

15:33 15 position of Acting IG of RTC, that is, Inspector
General

16 of RTC?

17 A. Possibly.

18 Q. Well, when you would you have been Acting IG?

19 A. I don't know, you know.

15:34 20 Q. Okay.

21 A. All of these were all need -- just significant,

22 no, minor --

23 Q. I'm sorry?

24 A. These were all very minor significancies.

15:34 25 (Exhibit No. 12 marked.)

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15:34 1 Q. (BY MR. DEIXLER) Minor. Let me show you a
2 document that's marked as Exhibit No'd. 12, and do you
3 recognize the handwriting on that document, sir?

4 A. It looks like David Miscavige's.

15:34 5 Q. And this is Miscavige responding to you in
6 which you give him a briefing on some case that you were
7 involved in -- the FSO Breach case -- and you had
8 identified yourself as the Acting Inspector General of
9 RTC; isn't that right?

15:35 10 A. Acting Temporary IG. Yeah.

11 Q. Okay. And that was December 31st, 2003; isn't
12 that true?

13 A. Correct.

14 Q. Okay. And isn't it correct that what

15:35 15 Mr. Miscavige said to you was, in effect, don't hold
16 yourself out as the Inspector General of RTC; isn't that
17 what you understood this to mean?

18 A. Not at all. He says, Do this once more and an
19 issue goes to all SO units making it clear.

15:35 20 So, like I said, there's no issue.

21 There's no comment. There's no -- there's no -- this is
22 just -- this is just another one of David Miscavige's
23 hissy fits.

24 Q. Making it clear that you are not -- not only

15:35 25 not the inspector general, but not even the acting

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15:35 1 inspector general; isn't that what you understood this
2 to mean in December of 2003, sir?

3 A. This is once a -- what does the rest of it say?

4 This is once a doing and no more than a tweeter. I

15:36 5 can't even believe you did it and nor would anyone.

6 What he's even -- I don't even know what he's talking

7 about. This is David Miscavige. This is David

8 Miscavige in just one of his psychotic rants.

9 Q. Yeah. Whatever his psychotic --

15:36 10 A. And -- and -- and the statement indicates that,

11 clearly, I am on post because he's saying that an issue

12 will go out. Well, an issue has to go out. If there's

13 no issue out, I'm on post.

14 MR. BABBITT: Okay. Hang on just for a

15:36 15 minute. It's 4:35 Eastern Standard Time and we've been

16 going well over five hours. The last half hour has been

17 spent on whether he's second in command or not.

18 MR. DEIXLER: Right.

19 MR. BABBITT: Unless you're almost done, I

15:36 20 think we need to take a break so I can try and get the

21 Judge on the phone.

22 MR. DEIXLER: Yeah. Actually we should do

23 both. I'm -- I'm pretty close to being done in another,

24 I think, ten or fifteen minutes. But why don't you get

15:36 25 the Judge on the phone and see whether -- I'd like him

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15:36 1 to have the benefit of the full transcript as well.

2 Maybe we can electronically send him a rough to see the

3 behavior that I've endured. So why don't I finish up

4 this line --

15:37 5 MR. BABBITT: If you're making a motion --

6 MR. DEIXLER: I'm sorry?

7 MR. BABBITT: If you're making a motion of

8 some sort -- there's no reason to get him on the phone,

9 but if you're making a motion then I'll -- we'll be --

15:37 10 I -- I've got phone numbers here.

11 MR. DEIXLER: Well, I thought you -- I

12 thought you --

13 MR. BABBITT: If you don't then we don't

14 need --

15:37 15 MR. DEIXLER: -- wanted to call the Judge.

16 MR. BABBITT: -- to make the call.

17 MR. DEIXLER: I'm sorry?

18 MR. BABBITT: Huh?

19 MR. DEIXLER: I -- I -- My goal is to

15:37 20 finish the deposition and to give you the amount of
time

21 that's available. But if you want to call the Judge,

22 because you have some reason to speak to him, that's

23 fine. Otherwise, I'm going to go forward, finish up my

24 examination. I have no reason to speak to the Judge

15:37 25 now. If you do -- if you want to talk to the Judge then

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15:37 1 I would like to make sure he has the benefit of the --
2 the rough transcript of what Mr. Rathbun has done in
3 this deposition. That's all. So your call. You tell
4 me.

15:37 5 MR. BABBITT: Well, if you're done in ten
6 or fifteen minutes, I'm not calling the Judge to stop
7 you for ten minutes. So let's go -- based on that
8 representation, let's finish it up.

9 MR. DEIXLER: Oh. Oh, okay. But, you
15:37 10 know, you might want to call the Judge if you want. I
11 don't want -- I don't want in any way to interfere
12 your -- with you trying to get a hold of the Judge.

13 MR. BABBITT: Would you stop it, please.

14 You're imposing --

15:38 15 MR. DEIXLER: Okay.

16 MR. BABBITT: You're just -- you're
17 wasting time. Finish the deposition.

18 MR. DEIXLER: I'm wasting time. You must
19 be joking.

15:38 20 THE WITNESS: You've been doing it all
21 day, sir.

22 MR. BABBITT: This is nonsense.

23 Q. (BY MR. DEIXLER) Okay. So we are --

24 THE WITNESS: Total nonsense.

15:38 25 Q. (BY MR. DEIXLER) We are on -- we are on

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15:38 1 Exhibit No'd. 12.

2 A. Uh-huh.

3 Q. And my question to you, sir, after we've heard

4 your description of your view of Mr. Miscavige's

15:38 5 psychotic state and the like --

6 A. Uh-huh.

7 Q. -- notwithstanding that, did you conclude that

8 he was objecting to you holding yourself out as the

9 Acting Inspector General of RTC as of December of 2003?

15:38 10 A. No.

11 Q. Okay. You didn't understand that?

12 A. I understood a psychotic rage.

13 Can you tell me what the second sentence

14 says?

15:38 15 Q. Let me --

16 A. Can you tell me what the second sentence says?

17 Q. It's not my deposition here so far.

18 A. Okay. Well, then I can't either. So I'm just

19 telling you, the guy's -- it's just -- it's just one of

15:38 20 his continual hissy fits.

21 Q. Would you explain, if you were the second in

22 command of the Church of Scientology, why -- because you

23 were the inspector general you, yourself, chose to

24 represent yourself as the acting inspector general?

15:39 25 A. Who knows? The -- when I got back from -- I

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15:39 1 had been gone for -- you know, this whole period they --
2 where they tell you that I created this whole culture of
3 violence at International Base, that's Scientology's
4 response to me having blown the whistle on it.

15:39 5 I was gone for -- and these two could
6 testify to it if they had an honest bone in their
7 bodies -- Sarah and Ben Shaw. I was at Flag for like 18
8 of the 27 months or 22 of the 25 months leading up to
9 this time period when I came back to the Int Base.

15:39 10 Okay? It was like coming back to -- it was like
11 Apocalypse Now. It was like going up the river to
12 Brando's kingdom at -- at -- on Apocalypse Now. There
13 was beatings. There was group confessions. There was
14 deprivation of sleep, deprivation of food. All of this
15:40 15 was going on during that late 2003 period. So why I
16 would do that at that time period, I haven't a clue.

17 Q. Okay. So let me try to explore that a little
18 bit. You said that --

19 A. Why?

15:40 20 Q. -- you --

21 A. What's it got to do with anything?

22 Q. You said -- you said that you had been at Flag
23 for about 22 to 25 months prior to December of 2003?

24 A. A -- a majority of the two years leading up to.

15:40 25 When I got back in September or October 2003 to the Int

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15:40 1 Base, the previous two-and-a-half years, like 90 percent
2 of it, I was either in Los Angeles or Clearwater.

3 Mostly in Clearwater.

4 Q. Yeah. And were you -- when you were in

15:40 5 Clearwater were you acting in the capacity as the
6 inspector general?

7 A. Well, I don't know.

8 Q. Do you --

9 A. Not -- not -- not -- not what L. Ron Hubbard

15:41 10 would call the inspector general, but...

11 Q. So from --

12 A. I was representing myself at David Miscavige's
13 behest to a number of people as the inspector general.

14 I was representing myself to all of the people that I

15:41 15 was deal -- dealing with as it.

16 Whether he was doing some kind of

17 petulant, you know, little penalty thing of you can't

18 refer to yourself as that internally, I don't know, but

19 I was acting as the inspector general, yes.

15:41 20 Q. Okay. So 2001-2002 do you know whether you

21 held the title of inspector general while you were at --

22 doing this work in Clearwater?

23 A. Yes.

24 Q. Okay. Did -- did you see during that time

15:41 25 period any organization chart which identified you in

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15:41 1 that fashion, or in writing, any other writing that
2 identified you as the inspector general?

3 A. Probably. I was in --

4 Q. You know --

15:41 5 A. I was in Church magazines. You know, I don't
6 know.

7 Q. Okay.

8 A. Look it -- I -- this game you play here, you
9 guys never produced a single document; and then you pull
15:42 10 out little slithers, so it's like it's this sort of a
11 ridiculous word game you're playing with me right now.

12 Q. Right. So offhand you don't know of any
13 explanation for why you would have described yourself as
14 the acting inspector general rather than the inspector
15:42 15 general in this 2003 --

16 A. To --

17 Q. -- document?

18 A. Yeah. I have an explanation.

19 Q. Oh, you do?

15:42 20 A. Yeah.

21 Q. Oh, okay. What's your explanation?

22 A. Probably to satisfy some -- whatever
23 Miscavige's petulant hair up his ass was.

24 Q. I see. So sometime before 2003 Mr. Miscavige
15:42 25 had made it clear to you that you shouldn't regard

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15:42 1 yourself as inspector general and you were reacting to
2 that, correct?

3 A. I wasn't reacting to anything.

4 Q. Well, you called yourself acting inspector

15:42 5 general. It must have been for a purpose.

6 A. I don't know. I have no idea. I'm telling you

7 that whole period was a complete -- it was like

8 Apocalypse Now.

9 Q. Okay. I'm going --

15:42 10 A. It's organized as Apocalypse Now village.

11 Q. Right. Right. So I'm going to now place

12 before you a series of Enrollment Agreements which we

13 will -- yeah -- which we will mark consecutively. We'll

14 take about a two-minute break so you can flip through

15:43 15 them, and I'd like to have you review them in bulk and

16 I'll ask you a few questions about them. I think they

17 will be generally applicable, the questions will be

18 generally applicable, so I think that will be a way to

19 expedite it.

15:43 20 A. Are these things that I allegedly signed?

21 MR. DEIXLER: And so, Counsel, why don't

22 we take five minutes and we will come back after we've

23 got these documents at a easy to deliver to the witness

24 fashion. Okay?

15:43 25 THE WITNESS: Are these something that I

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15:43 1 allegedly signed?

2 MR. DEIXLER: Mr. Babbitt? Yes. Hey?

3 Hello?

4 MR. BABBITT: Yeah. I said yes.

15:43 5 MR. DEIXLER: Oh, I couldn't hear you.

6 You -- perhaps it was muted. All right. Off the record

7 for five minutes. Thanks.

8 THE WITNESS: Are these something that I

9 alleged --

15:43 10 THE VIDEOGRAPHER: The time is 3:43, we're

11 off the record.

12 (Short break taken and

13 Exhibit Nos. 13 - 37 marked.)

14 THE VIDEOGRAPHER: The time is 4:56. This

15:56 15 is the beginning of Disc 4, we're back on the record.

16 Q. (BY MR. DEIXLER) Mr. Rathbun, when we were

17 off the record we marked Exhibits Nos. 13 through 37

18 which are a series of enrollment application forms

19 executed by Luis Garcia.

15:57 20 A. Uh-huh.

21 Q. Would you take a look at those exhibits

22 quickly, at first, just to confirm that they are as I

23 have represented; that is, Mr. Garcia's enrollment

24 forms?

15:57 25 A. They would appear to be.

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15:57 1 Q. Okay. So 13 through 37, let's begin, if we
2 can, with what I believe to be the oldest of these
3 documents, which is one dated 25th of March 1986, which
4 is Exhibit 13. Do you have that in front of you?

15:57 5 A. Yes.

6 Q. First, would it be correct to say that you
7 observe in this particular form of an Enrollment
8 Agreement --

9 A. Uh-huh.

15:57 10 Q. -- a statement, which says at paragraph
11 No'd. 7, I understand and agree that donations and
12 offerings made under this agreement are refundable or
13 repayable only in accordance with the policies of the
14 Claims Verification Board. Applications for refunds
15:58 15 must be made within three months from the last day of
16 the auditing training rendered; do you see that?

17 A. What paragraph?

18 Q. Paragraphed No'd. 7 on the first page of
19 Exhibit No. 13.

15:58 20 A. Okay.

21 Q. Yes?

22 A. Yeah.

23 Q. Tell me, if you will, what involvement you had
24 in the drafting of that language.

15:58 25 A. I don't think I was involved in the drafting of

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15:58 1 that language.

2 Q. Paragraph No. 8 on Exhibit No. 13 sets forth
3 the requirement that any claim, dispute or controversy I
4 may have with the Church arising out of or relating to
15:58 5 any Scientology or Dianetic services or activities shall
6 first be submitted in writing to the International
7 Justice Chief at Flag. If the claim or controversy is
8 not resolved to my satisfaction within 30 days following
9 the date of the submission then the matter shall be
15:58 10 submitted to arbitration in accordance with the
11 following. And then there are steps 1 through 5 which
12 are set forth there.

13 A. Right.

14 Q. Tell me, if you will, what your involvement was
15:59 15 in the drafting of paragraph No'd. 8 in Exhibit 13.

16 A. I don't know. The only thing that this
17 communicates to me is I do -- now, this does refresh my
18 recollection. You did have this arbitration clause in
19 here, but it was even more Draconian to --

15:59 20 MR. BABBITT: I can't hear you. I'm
21 sorry.

22 A. They're -- they -- they -- they have this --
23 this arbitration clause in these ones from '80s, I
24 guess, 13 -- I don't know when -- 14's not dated, but
15:59 25 it's an even more Draconian towards the applicant in

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15:59 1 that the IJC picks them all. He doesn't even get to
2 pick one. And I do -- it does refresh my recollection
3 in that I remember there being some concern that this
4 was a meaningless, unenforceable arbitration clause, and
16:00 5 so I think in these later ones you then -- the '90s you
6 don't have an arbitration clause if I'm not mistaken.

7 Q. (BY MR. DEIXLER) Well, let's -- let's just
8 stay on this one, sir.

9 A. Yeah.

16:00 10 Q. I -- I'm --

11 A. Do you -- do you hear what I'm saying?

12 Q. Exhibit 13 and -- Exhibit 13 we're -- we're
13 still considering. Do you have 13 in front of you?

14 A. Yeah.

16:00 15 Q. Okay. I want you to look at that.

16 So my question to you was, what
17 involvement did you have in the drafting of paragraph
18 No. 8 in Exhibit No. 13?

19 A. Asked and answered twice. And the answer was I
16:00 20 didn't.

21 Q. Okay. So -- and the same form was used in
22 Exhibit No'd. 14 and your answers would be the same;
23 that is, paragraph 7, paragraph 8, you had nothing to do
24 with, correct?

16:00 25 A. Seven and eight?

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16:00 1 Q. Yes.

2 A. I do not believe so. I mean, I don't know.

3 Whether I had anything to do with them or not is a

4 different question. I may have had something to do with

16:00 5 it. Like I told you, it does refresh my recollection

6 that there was some really bizarre arbitration clauses

7 that were absolutely unenforceable coming to my

8 attention sometime at that time period. These would be

9 those type of forms because these--

16:01 10 Q. So tell me -- tell me --

11 A. These are even more bizarre. They say that the

12 guy can't even -- the applicant can't even have

13 involvement in the thing, and it -- it -- they're --

14 they're doubly bizarre -- I remember this that -- this

16:01 15 whole thing in here. They said -- they -- they act as

16 if the IJC is a separate party than the Church. The IJC

17 is an employee of the Church.

18 Q. Uh-huh.

19 A. Do you see how absurd it is?

16:01 20 Q. So --

21 A. That's what I mean by kangaroo court --

22 Q. Yeah. So --

23 A. -- Mr. Deixler.

24 Q. So in 1986 you had nothing to do with the

16:01 25 drafting of this agreement. Did you participate in any

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16:01 1 discussion with --

2 A. In drafting it?

3 Q. Drafting it.

4 A. I -- I didn't draft it, no, but I probably

16:01 5 participated in some discussion about --

6 Q. Tell me --

7 A. -- how absurd it was.

8 Q. Tell me, if you will, when that discussion

9 occurred.

16:01 10 A. I don't know.

11 Q. Tell me where it occurred.

12 A. I really don't know.

13 Q. Who was it with?

14 A. I told you I have a vague recollection. That's

16:01 15 all I had. I don't really know. I said I probably did

16 talk to somebody about it because I -- I do recall it

17 being -- this just being really absurd, and -- and

18 that's why I think it was removed from later Enrollment

19 Agreements.

16:02 20 Q. Why -- when did -- when -- Was it prior to 1986

21 that you first concluded that this was, quote, absurd,

22 closed quote?

23 A. I wouldn't think so. This is signed in '87.

24 And my testimony was that I thought that I may have made

16:02 25 some comments to the effect that resulted in it being

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16:02 1 taken out. But I can't --

2 Q. Yeah.

3 A. -- be sure because you're putting eight

4 documents in front of me at once and you won't let me --

16:02 5 Q. No. I'm looking at --

6 A. You won't let me put them in order and -- and

7 study them, so --

8 Q. They're --

9 A. I'm just trying to be helpful to you with what

16:02 10 I --

11 Q. Yeah.

12 A. -- with what I recollect.

13 Q. Yeah. None of what you just said is true.

14 What we've done is we've put the documents in order in

16:02 15 front of you and I've asked you to only look at one at
a

16 time, which is Exhibit No'd. 13. You've chosen to

17 spread the documents out across the table.

18 A. No. Before we broke --

19 Q. And so --

16:02 20 A. -- you said I'm going to give you the whole

21 stack of documents and you're going to look them all

22 over and tell me if these look -- and that's --

23 Q. And we've done that?

24 A. And that's what you did. You chucked a bunch

16:02 25 of documents at me all at once.

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16:02 1 Q. Okay. And now we're -- we're analyzing the
2 1986 document, and I asked you whether -- seeing this
3 document, does that refresh your memory that you're --
4 you brought your concerns about this agreement in the
16:03 5 arbitration clause to anyone's attention in 1986?

6 A. I've answered your questions. I've told you
7 all I -- I can recall about any of these ones, three and
8 four.

9 Q. Okay. So Exhibit 14 --

16:03 10 A. Thirteen and fourteen.

11 Q. Yes. Exhibit 14 is undated, but has the same
12 provision. And your answer would be the same: You had
13 nothing to do with the drafting of it and you can't
14 recall discussing it specifically, either the
16:03 15 arbitration clause or the refund policy --

16 A. No.

17 Q. -- in there?

18 A. But I vaguely recall pointing out that -- that,
19 even to me as a layman, that arbitration clause was
16:03 20 absurd on its face.

21 Q. Right. Do you remember who you pointed that
22 out to?

23 A. No.

24 Q. Do you remember when you pointed it out?

16:03 25 A. Sometime before these new ones were done.

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16:03 1 Because these ones were done in '90s, I think, we get
2 into 16, 17 and 18, these ones with the -- maybe they
3 were '80s, but I can't tell. I'd have to look at them.

4 Q. Well, let's -- let's -- let's look at the next

16:03 5 in order, which is Exhibit No'd. 15, and that too has
6 the same paragraph 7 and 8, and this one is from July of
7 1989, correct? All of the documents --

8 A. I'm looking for --

9 Q. -- bear sticker stamps.

16:04 10 A. I'm looking -- I'm looking for eighteen.

11 Are we done with -- are we done with
12 fifteen?

13 Q. We're up to fifteen.

14 A. Oh, okay. Go ahead.

16:04 15 Q. So fifteen has the same paragraph 7 and 8
16 regarding refunds and arbitration clauses, right?

17 A. Right.

18 Q. You had nothing do with the drafting of that,
19 correct?

16:04 20 A. Correct.

21 Q. And this was --

22 A. That I -- that I know of. I mean, you guys,
23 you might -- might be able to say I did, but...

24 MR. BABBITT: You're not -- you're not

16:04 25 seriously going to go through 35 of these, are you? I

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16:04 1 mean, if he -- can't he just testify to one he had to do
2 with it?

3 Q. (BY MR. DEIXLER) And then --

4 MR. BABBITT: (Inaudible) with all of them

16:04 5 than limit it to each one separately?

6 Q. (BY MR. DEIXLER) -- this is dated July of

7 1989, Exhibit 15, correct?

8 THE WITNESS: Ted, you came through loud

9 and clear. He's just ignoring you.

16:04 10 Q. (BY MR. DEIXLER) July 15th, 1989, does seeing

11 the date of Exhibit 15 assist you in your --

12 MR. BABBITT: I've asked a simple

13 question, Counsel. Would you answer me, please? Are

14 you going to go through 35 of these?

16:05 15 MR. DEIXLER: Hadn't been my plan, but --

16 MR. BABBITT: I mean, I'm going to ask for

17 sanctions.

18 MR. DEIXLER: Okay. So we're going to

19 finish up on -- on this exhibit now.

16:05 20 Q. (BY MR. DEIXLER) Exhibit 15. Does seeing the

21 date of July 1989 and knowing that Exhibit 13 was

22 July 1986 help you to focus any better on the time

23 when this might have come to your attention; that is,

24 what you perceive to be the --

16:05 25 A. I would say it would be after '89 if they were

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16:05 1 still in the agreement.

2 Q. Okay. So during this time period, were you
3 unaware of the existence of this form or you hadn't
4 focused on the fact of the arbitration provision?

16:05 5 A. Dude, I was taking on the IRS which had a
6 billion dollars in assessments that was threatening to
7 wipe us out, and that was mainly what my attention was
8 on. And plus we had trials that were happening: The
9 Yanny trial, et cetera. This was way, way, way, way,
16:05 10 way down our priority list.

11 Q. Okay.

12 A. And so I've told you what I vaguely recall.

13 Q. Okay. So, now, if you'd look at Exhibit
14 No'd. 16, we can agree that this is different in form;
16:05 15 am I correct?

16 A. Yes.

17 Q. And this too has a provision pertaining to
18 arbitration.

19 A. What paragraph, please?

16:06 20 Q. Look at paragraph No'd. 8. And this is a
21 document that's executed on August of 1994, five years
22 after the last --

23 A. Right.

24 Q. -- agreement.

16:06 25 A. Right.

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16:06 1 Q. Right?

2 A. Right. This also was done at the ins- --

3 insistence of David Miscavige. It was part of that

4 whole -- I believe, that whole IRS thing coming to an

16:06 5 end, and he was going to -- he -- he was under this view

6 that once the IRS is done there will never, ever be an

7 external flap from the -- affecting the Church again.

8 So they were going to get all of our enrollment forms to

9 completely immunize the Church.

16:06 10 MR. BABBITT: Is there any way to move the

11 mic closer to you; I can't hear a word you're saying?

12 THE WITNESS: I'll get right up on top of

13 it. I'm sorry.

14 A. I said that I think it was that Miscavige

16:06 15 ordered this as part of the time period of the IRS

16 settlements, the early '90s. It -- it was coming up and

17 he knew he wanted to immunize the Church from basically

18 everything.

19 Q. (BY MR. DEIXLER) So let me pursue this. You

16:07 20 see paragraph No'd. 8 sets forth an arbitration

21 provision in some detail, and paragraph 9 addresses

22 the absence of an obligation to return a religious

23 donation except under the circumstances set forth and

24 procedures set forth regarding the Claims Verification

16:07 25 Board?

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16:07 1 A. Yeah.

2 Q. Do you see that?

3 A. And that -- and that first sentence,

4 paragraph 9 --

16:07 5 Q. Yeah.

6 A. -- that absolutely was David Miscavige's order

7 that that -- that -- because that's the first time that

8 appears. The Church is under no duty whatsoever to

9 return any portion of a donation, which -- which echos

16:07 10 a -- another issue that he issued called Scientology

11 Policy Directive about return of donations. Made this

12 big thing about we're under no obligation ba-bada-bada.

13 Q. Okay.

14 A. Yeah.

16:08 15 Q. And so let us focus on paragraph No'd. 8, the

16 arbitration provision, and tell me, if you will, what

17 involvement you had in the drafting of paragraph No'd. 8

18 of this form.

19 A. I'd have to read it. I think Eric Lieberman

16:08 20 might have drafted this, been involved in drafting it
or

21 revising it. I seem to recall getting Lieberman

22 involved in this at -- during this time period or

23 telling somebody to get Lieberman involved in it.

24 Q. And Mr. Lieberman is an outside lawyer --

16:08 25 A. Yeah.

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16:08 1 Q. -- who works --

2 A. In New York.

3 Q. -- works --

4 A. In New York.

16:08 5 Q. -- from time to time for the Church of
6 Scientology and affiliates?

7 A. Most of the time, yeah.

8 Q. Okay. And was there any language in here that
9 you inserted? Paragraph 8, we're focusing.

16:09 10 A. I'm reading it.

11 Q. Yeah. Okay.

12 A. I did not --

13 Q. Okay.

14 A. -- do paragraph 8.

16:09 15 Q. So let me see, if -- if you weren't the drafter
16 of paragraph 8 what involvement you had in the creation
17 of that paragraph on Exhibit 16, the arbitration clause.
18 Tell me, if you will, even if you didn't actually put
19 pen to paper or keys to -- fingers to keyboard, what
16:10 20 involvement you had in this process, if any.

21 A. Yeah. Again, I think it was more like, more
22 along the line of, Hey, telling somebody -- Rinder or
23 Farney or whoever was working on this, or Warren
24 McShane -- you'd better get Lieberman on this because
16:10 25 he's the guy that's going to have to defend the suits,

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16:10 1 you know, ultimately, under the first amendment.

2 Q. So as --

3 A. As I recall, perhaps, maybe, saying you'd

4 better get Lieberman to do something about this.

16:10 5 Q. Okay. So your best memory --

6 A. To check it, maybe. That was our -- sort of

7 our nomenclature.

8 Q. Yeah. So your best memory is that the language

9 would have been drafted by Eric Lieberman --

16:10 10 A. No. I didn't say that.

11 Q. -- an outside lawyer?

12 A. I didn't say that.

13 Q. Oh, what -- what's your best memory about the

14 drafter of that provision?

16:10 15 A. I have no idea.

16 Q. You don't know --

17 A. I don't know.

18 Q. -- who drafted it.

19 Do you know for sure --

16:10 20 A. No.

21 Q. -- that Mr. Lieberman gave any advice regarding

22 it?

23 A. At some point he did. And that might have been

24 the later evolution in the early 2000s.

16:11 25 Q. I see.

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16:11 1 A. Yeah.

2 Q. Okay.

3 A. See all of this was revisited when Miscavige

4 wanted to -- wanted to create the McPherson waivers.

16:11 5 Q. Right. And so paragraph No'd. 9 you've already

6 told us about the no duty to return religious donations,

7 that was something that you've told us Mr. Miscavige

8 himself inserted in the agreement; is that --

9 A. I know that's his --

16:11 10 Q. -- your memory?

11 A. I know that's his language.

12 Q. Do -- do you --

13 A. But now whether he put it in the agreement or

14 not, I'm not sure.

16:11 15 Q. Okay.

16 A. But it found itself in there. But he's the --

17 he's the guy to attribute that idea to. He was --

18 always had these absolutist statements like that.

19 Q. And how about the rest of paragraph 9, did you

16:11 20 have any involvement in connection with paragraph 9?

21 A. Nine.

22 Q. Yes.

23 A. What's nine about?

24 Q. That's the one that we were just looking at,

16:11 25 the no duty to return refunds.

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16:11 1 A. Oh. Oh. Did I have anything to do with that?

2 Not that I know of.

3 Q. Okay. So let's move on --

4 A. But I see you're right. They still have -- we

16:12 5 still have that -- the IJC being referred to as a
6 separate party.

7 Q. Let's move on to Exhibit No. 17.

8 A. Uh-huh.

9 Q. Which is a form dated in February of 2002.

16:12 10 A. Okay.

11 Q. Another enrollment application.

12 A. Okay.

13 Q. And look at the third page under paragraph

14 No. 6, starting at letter (d) and (e) that sets forth a
16:12 15 dispute resolution or arbitration --

16 A. Six (d) and (e) of Exhibit 17?

17 Q. Yes, sir. And that sets forth the dispute
18 resolution formula --

19 A. Yeah.

16:13 20 Q. -- right?

21 A. Now, that first para- -- sentence really looks
22 like Lieberman's.

23 Q. And which -- which sentence --

24 A. (d). (d).

16:13 25 Q. In accordance with the discipline, faith,

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16:13 1 internal organization and ecclesiastical rule?

2 A. Yeah. I mean, he took that right out of Watson

3 v. Jones or whatever -- it's on Jones v. Watson.

4 Q. Yeah.

16:13 5 A. Remember that one?

6 Q. And so tell me, if you will, what involvement

7 you had in the drafting of this part of the arbitration

8 provision?

9 A. Yeah. Maybe this is the round where I said,

16:13 10 somebody better get this to Lieberman, and he -- and he

11 had -- he was now on the -- he now had his hand in the

12 constitutional side-check business.

13 Q. I see.

14 A. And maybe I had something to do with that.

16:13 15 Q. But you don't have any specific memory, do you?

16 A. I do have some remember -- well, yeah. I don't

17 have a specific memory other than the fact that I -- I

18 think that, at some point, I said, You'd better get

19 Lieberman to check that.

16:13 20 Q. And -- and but you're sure you didn't draft it;

21 this was done by some lawyer on the outside, correct?

22 A. No, not necessarily.

23 Q. Well, you didn't draft it. Do you know who did

24 draft it, if it wasn't Mr. Lieberman, the outside

16:14 25 lawyer?

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16:14 1 A. Probably Mike Rinder or somebody in OSA. Jim
2 Morrow. It could be a whole number of people that do
3 that sort of thing.

4 Q. But you know --

16:14 5 A. And probably edited by Bill Drescher. I don't
6 know.

7 Q. You don't know is the -- is the complete answer
8 really? You don't know who drafted it, who edited it --
9 A. No.

16:14 10 Q. -- right?

11 A. No.

12 Q. And -- and this was as of February of 2002.

13 One of the things I observe about this
14 form, different from the predecessors that we've looked
16:14 15 at, is that after each paragraph there is a box for the
16 congregant to initial; do you see that?

17 A. Yeah. The best of my recollection, Miscavige
18 ordered that because we had just had an evidentiary
19 hearing. And maybe that's before this, though. Maybe
16:15 20 that's after this. I thought that was 2002. But we had
21 gotten in -- we had a big evidentiary hearing in 2002
22 where there was a -- we had a lot of litigation over
23 protesting and stuff. I think that came up in
24 litigation where people would challenge the document and
16:15 25 say, Well, I -- that's my signature but I don't agree

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16:15 1 with those pages you attached. So he got into this big
2 kick about making people initial throughout a document.

3 Q. And let me ask you to look at paragraph 5 and
4 you'll see as you go through paragraph 5 at 5(c) and
16:15 5 then the Roman numbered --

6 A. But you realize --

7 Q. -- paragraphs that --

8 A. -- none of this has --

9 Q. -- follow.

16:15 10 A. You realize none of this has anything to do
11 with refunds, though.

12 Q. Paragraph 5 which has -- starting at (c) has a
13 statement about no Scientology Church is under any duty
14 or obligation to return any portion of religious
16:16 15 donations; you see that?

16 A. Where? Yeah.

17 Q. Paragraph 5.

18 A. Yeah.

19 Q. Starting at (c).

16:16 20 A. Yeah. What about it?

21 Q. It sets forth certain aspects of it; do you see
22 that?

23 A. Yeah. That's the SPD I was talking about.

24 Scientology Policy Directive. Now, they've cited it in
16:16 25 there.

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16:16 1 Q. Yeah. And so tell me, if you will, what
2 involvement you had in the drafting of that document --
3 of this portion of the document?

4 A. I don't think I had involvement other than
16:16 5 maybe confirming a Miscavige order that this stuff get
6 in there.

7 Q. Okay. And but you don't specifically recall
8 that, do you?

9 A. No.

16:16 10 Q. Okay. Now, if you'll quickly look at -- I
11 think they're all similar in form going forward from 17
12 through the last one which is 37. If you'll confirm
13 that for me.

14 A. Confirm what for you?

16:16 15 Q. That those are -- the form we have seen that
16 was used in Exhibit 17 --

17 A. Well --

18 Q. -- is the same form and you -- and, therefore,
19 you have no personal knowledge about the drafting or --

16:17 20 A. Are you representing to me that 17 through what
21 is the same?

22 Q. Seventeen through 37. That -- that all of the
23 documents following this document are the same forms
24 with the same --

16:17 25 A. I'll -- I'll --

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16:17 1 Q. -- arbitration --

2 A. I'll accept your representation that they are.

3 But if you're wrong, I -- I will change -- I will

4 reserve the right to change my testimony later. How's

16:17 5 that?

6 Q. Okay. That seems time efficient.

7 A. Okay.

8 Q. So I will represent to you that it's --

9 A. These are all the same?

16:17 10 Q. That these are the same.

11 A. Okay.

12 Q. And your testimony would be the same, which is

13 no matter what number Exhibit after 17, you would agree

14 with me that you didn't draft it and you don't have any

16:17 15 specific memory of anything that you did --

16 A. Well --

17 Q. -- to create it; is that fair?

18 A. Well, again, on this last one, 17 through 37,

19 if these are the latest ones --

16:17 20 Q. Yes.

21 A. -- these would be my testimony that we went

22 over probably for half an hour describing what went on

23 between Bill Drescher, myself, Mike Rinder, David

24 Miscavige would apply to these. That's what it applied

16:18 25 to. It applied to Exhibit 17 through the end.

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16:18 1 Q. And so is it your memory that Mr. Drescher was
2 the author of these paragraphs, or that it was
3 Mr. Lieberman, or you don't really remember one way or
4 the other?

16:18 5 A. Well, Drescher was the one responsible, so... I
6 don't know that he was drafting or he was, you know,
7 submitting Mike Rinder's drafts or somebody -- some
8 other legal staff's drafts. I know Rinder did a hell of
9 a lot of editing. He really definitely had his hand in
16:18 10 all of this.

11 Q. Uh-huh. Okay.

12 (Reporter clarification.)

13 Q. (BY MR. DEIXLER) All right. We will -- we'll
14 have the opportunity, I'm sure, to examine Mr. Rinder
16:18 15 on his -- his knowledge regarding this.

16 Let me just ask you -- so let me just ask
17 you to take a very quick look at what we'll number as
18 Exhibit 38, 39, 40 and 41, which are forms identical but
19 signed by Mrs. Garcia; and would you confirm my
16:19 20 understanding that Exhibit 38 signed by Ms. Garcia
21 contains the same paragraphs at 7 and 8 as Exhibit 13
22 for Mr. Garcia? Sir, let me --

23 A. I'm still on -- I'm still on 17.

24 MR. DEIXLER: Well, while he's looking at

16:20 25 this, would you mark these 38, 39, 40, 41.

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16:20 1 (Exhibit Nos. 38 - 41 marked.)

2 Q. (BY MR. DEIXLER) Mr. Rathbun, I --

3 MR. DEIXLER: Oh, I'm sorry.

4 THE WITNESS: You know, this is absolutely

16:20 5 and utterly inapplicable to a refund.

6 MR. BABBITT: We're -- we're getting to

7 that, Mr. Rathbun.

8 THE WITNESS: Okay. I'm just reading it.

9 I just was reading through his --

16:20 10 Q. (BY MR. DEIXLER) So we --

11 A. Okay. So that's 17 through 38?

12 Q. We've -- we've placed before you Exhibits 38

13 through 41, and I just want to confirm with you that the

14 forms that were signed by Mrs. Garcia are similar to or

16:21 15 identical with the forms which were signed by her

16 husband --

17 A. I -- I have no idea.

18 Q. -- which --

19 A. This -- to -- to get me to testify to that --

16:21 20 Q. Yeah. It's going to be an A-B comparison, so

21 then you don't --

22 A. What do you mean an A-B comparison?

23 Q. You're going to -- you're -- I'm going to ask

24 you to take a look at --

16:21 25 MR. BABBITT: Don't the documents speak

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16:21 1 for itself?

2 MR. DEIXLER: Yeah.

3 THE WITNESS: Yeah. I would think so.

4 MR. DEIXLER: Yeah. I want to

16:21 5 establish --

6 THE WITNESS: He wants to --

7 MR. DEIXLER: I want to establish that

8 they are the same and then have him confirm that he had

9 no involvement with Mrs. Garcia's --

16:21 10 MR. BABBITT: Well, anybody that reads

11 them will establish they're the same. You're just

12 asking him to read them and say something that anybody

13 could see.

14 Q. (BY MR. DEIXLER) Would you look -- take a

16:21 15 look at Exhibit No'd. 38.

16 A. Yeah.

17 Q. Okay. And Exhibit No. 38 has, at paragraphs 7

18 and 8, the donation return policy and the arbitration

19 provision.

16:22 20 A. Uh-huh.

21 Q. Will you agree with me that these two

22 provisions are ones that you didn't draft and have no

23 memory of any involvement with?

24 A. Well, the first part of that I adopt. The

16:22 25 second one, I don't. I've told you what my involvement

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16:22 1 is and -- and I told you I wasn't involved in drafting.

2 Q. Yeah. In 19 -- this is a -- a form that was

3 used in the 1980s, sir. Do you now have a memory that

4 in the 1980s you were involved in commenting upon the

16:22 5 drafting of these agreements?

6 A. I don't have any other --

7 Q. Okay.

8 A. -- further recollections from what I've already

9 testified, but --

16:22 10 Q. Okay. Perfect.

11 A. -- I'm just saying, I didn't -- you tried to

12 dump them together. I didn't say I had no involvement.

13 Q. Would you take a look now at 39, 40 and 41.

14 A. Yeah.

16:22 15 Q. And again, looking at the paragraphs that we

16 have looked at in connection with Mr. Garcia, can we

17 agree that your testimony is the same as to your

18 involvement with regard to the arbitration clause and

19 the refund clause as it was for the documents we showed

16:23 20 you for Mr. Garcia?

21 A. Yeah. I'm going to have to read this.

22 Q. Could you answer the pending question, sir?

23 A. I'm like twenty minutes behind you. I'm trying

24 to read. You've gone through 48 documents and you won't

16:23 25 allow me to read a paragraph on the -- on the issue in

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16:23 1 this case, which we've been here for six hours, and
2 we've spent maybe fifteen minutes on the issues of this
3 case, and I'm trying to read the paragraph that is
4 relevant to the issue in this case. Can I please finish
16:24 5 reading the paragraph?

6 Q. Well, I -- you know, we -- we've been very
7 concerned about time. My question was a very --

8 A. The answer is no. Okay? Go ahead and ask your
9 question.

16:24 10 Q. My -- my -- my question was, do you agree with
11 me that the forms 38, 39, 40 and 41 is the same as the
12 forms that we've shown you with Mr. Garcia during the
13 same time period?

14 A. I don't know. It would take twenty minutes to
16:24 15 go through them to do -- to testify under oath that
16 they're the same thing.

17 Q. Okay.

18 A. I mean, they are what they are. Ask me a
19 question about the document.

16:24 20 Q. Yeah. I will ask you about 38, 39, 40 and 41.
21 Please tell us what involvement you had with the --

22 A. My involvement with those are the same as my
23 involvement with the rest of them. I've testified to my
24 involvement with the --

16:24 25 Q. Right.

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16:24 1 A. -- with the things and my lack of --

2 Q. That's all I was asking.

3 A. -- lack of involvement with drafting.

4 Q. Yeah. That's all I was -- that's all I was --

16:24 5 A. As to all of them.

6 Q. -- asking.

7 MR. DEIXLER: All right. Let's take a

8 short break. I may be finished and welcome Counsel's

9 opportunity to examine the witness. Take about five

16:25 10 minutes.

11 THE VIDEOGRAPHER: The time is 4:25, we're

12 off the record.

13 (Short break taken.)

14 THE VIDEOGRAPHER: The time is 4:34, we

16:33 15 are back on the record.

16 MR. DEIXLER: Mr. Babbitt, I was told off

17 the record that we have consumed five hours and

18 forty-four minutes of examination, and so I will reserve

19 the balance of my time for redirect and you're welcome

16:34 20 to go to it.

21 MR. BABBITT: Yeah. I don't think you

22 have any balance of your time, but that's -- that's your

23 decision.

24

16:34

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16:34 1 EXAMINATION

2 BY MR. BABBITT:

3 Q. Okay. Mr. Rathbun --

4 A. Yes, sir.

16:34 5 Q. -- are you okay?

6 A. Pardon me?

7 Q. I said, all right. I -- I -- You'll have to

8 bear with me because I'm going to have to get you to

9 repeat a good bit of your testimony, which is spread out

16:34 10 over almost six hours, and, hopefully, into a semblance

11 of order so that the Judge can hear you and understand

12 you within a reasonable period of time.

13 A. Okay.

14 Q. I know it's been a long day. You've been here

16:34 15 since nine o'clock your time, and it's now, what, 4:45

16 your time? Four, four -- 4:30?

17 A. Yeah.

18 Q. Okay. So let's start.

19 A. Okay.

16:35 20 Q. How long were you a member of the Church of

21 Scientology?

22 A. For 27 years.

23 Q. During what period of time?

24 A. 1977 to 2004.

16:35 25 Q. And during that time were you employed at the

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16:35 1 Church?

2 A. Yes. Between January of 1978 and
3 December 2004.

4 Q. And for the last seven years what was your
16:35 5 employment title?

6 A. Inspector General of the Religious Technology
7 Center.

8 Q. And what does that mean?

9 A. That is the -- supposed to be the head of
16:35 10 Religious Technology Center, which is the organization
11 that is supposed to be the holder of the trademarks of
12 Dianetics and Scientology; and through the trademarks
13 control the standards and the way that Scientology is
14 being administered by Church of Scientology
16:35 15 International, which is considered the Mother Church
and
16 the highest ecclesiastical management group in
17 Scientology.

18 Q. And have you ever administered Church policies
19 regarding monetary refunds?

16:36 20 MR. DEIXLER: Object to the form of the
21 question as vague.

22 A. Yes.

23 Q. (BY MR. BABBITT) And during what period of
24 time?

16:36 25 A. Two thousand and -- excuse me -- 1982 and 2004.

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16:36 1 Q. And what were your duties with respect to that?

2 A. My main duties were to see to it that refunds

3 were not allowed to backlog so severely that they

4 resulted in public relations legal or security

16:36 5 situations for the Church. I also had some oversight on

6 the -- as I've discussed already, on the -- the forms

7 that were used in administering it.

8 Q. Now, these -- when I'm asking you these

9 questions, the Judge, I -- I'll be representing this

16:37 10 portion of your testimony on my case; so he may not
have

11 seen the other parts, so just assume that -- that you're

12 testifying fresh. Okay?

13 A. Right. So I, you know --

14 MR. DEIXLER: Objection. There's no

16:37 15 question pending.

16 A. The -- the other duties besides making sure

17 that they didn't backlog so severely as to create public

18 relations problems had to do with ensuring that the

19 office of special affairs, through Mike Rinder and its

16:37 20 staff, were creating enrollment forms and -- and

21 documents that would protect Scientology from attacks

22 from people who were being denied refunds.

23 Q. (BY MR. BABBITT) Okay. And was that

24 answering in reference to the question I had just

16:37 25 asked?

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16:38 1 A. Yes, sir.

2 Q. Where you said that that was your prior
3 testimony?

4 A. Yes.

16:38 5 Q. You've been shown, I believe, it's Exhibits 13
6 through 41, which are described as Religious Service
7 Enrollment Application; is that correct?

8 A. Yes, sir.

9 Q. And in that exhibit did you see generally the
16:38 10 term "Scientologist in good standing"?

11 A. Yes.

12 Q. And did you see where in the majority of those
13 Enrollment Agreements the requirement is to have an
14 arbitration proceeding where three Scientologists in
16:38 15 good standing would be the arbitrators?

16 A. Yes.

17 Q. All right. And the questions that I'm going to
18 ask, please consider that I -- that's what I'm talking
19 about when I talk about the arbitration agreement.

16:38 20 A. Okay.

21 Q. You understand that?

22 A. Yes.

23 Q. All right. Now, with respect to that
24 arbitration agreement, does that in your experience and
16:39 25 your opinion apply to refunds?

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16:39 1 A. No.

2 Q. Why not?

3 A. Because if somebody asks for a refund they're
4 automatically considered have -- as having committed a
16:39 5 suppressive act and are a suppressive person, and the --
6 the arbitration agreements are trying to enforce some
7 internal Church procedure. By definition, a suppressive
8 person is outside the benefits or the jurisdiction of
9 internal Church procedures. The only thing they get is
16:39 10 a -- in terms of ethics and justice is they get the
11 office of special affairs put them up -- put on them if
12 they're too noisy.

13 Q. Do you understand that the Garcias have been
14 declared suppressive persons?

16:39 15 A. Yes.

16 Q. And do you understand this lawsuit relates to
17 refunds or donations that they have made?

18 A. Yes.

19 Q. Can you tell us how suppressive persons are --
16:40 20 like the Garcias are viewed by the Church and by
21 Scientologists in good standing?

22 MR. DEIXLER: Object.

23 A. They're viewed as --

24 MR. DEIXLER: Object to the form of the

16:40 25 question. Foundation.

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16:40 1 A. They're viewed as non-persons. And to the
2 extent that they make any type of statement about
3 Scientology that Scientology considers adverse or not
4 positive, they -- they are considered an enemy, and
16:40 5 there's all sorts of apparatus and means to silence them
6 once that determination is made.

7 Q. (BY MR. BABBITT) Are -- are Scientologists in
8 good standing required to consider suppressive persons
9 in that fashion?

16:40 10 A. Yes.

11 Q. Are there policies of the Church that
12 specifically require that?

13 A. Yes. And under penalty of if you don't comply
14 to it then you too will be declared suppressive and
16:41 15 treated accordingly.

16 Q. Do you have in front of you -- and I'm not sure
17 what number it's -- it's marked or if it's marked at
18 all. It's attached to your declaration -- the HCO
19 policy letter of March 7th, 1965?

16:41 20 A. Yes. I'm familiar with it.

21 Q. Do you have it attached to your -- your
22 declaration?

23 A. Yes.

24 MR. BABBITT: Could we identify that as

16:41 25 the first exhibit on behalf of the plaintiff, please,

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16:41 1 Court Reporter?

2 THE WITNESS: You want to take mine?

3 That's not it. It's this -- I'm trying to get to where
4 the beginning of the attachment is. 7 March 1965?

16:41 5 THE REPORTER: Mr. Babbitt, one second.

6 (Discussion off the record.)

7 Q. (BY MR. BABBITT) Take a look at No. 4,
8 please.

9 A. Okay.

16:42 10 Q. And look at page 1 of No. 4.

11 A. All right.

12 Q. And read for me the last sentence there. It
13 says, The chief stumbling block...

14 A. The chief stumbling block, huge above all

16:42 15 others, is the upset with potential trouble sources and
16 their relationship to suppressive persons or groups.

17 Q. What does that mean, sir?

18 A. That means that -- he's stating that the

19 biggest barrier to Scientology making the entire world

16:43 20 into Scientologists is that certain Scientologists are

21 connected to people who are suppressive persons and it's

22 affecting them. So you -- so the most important thing

23 in Scientology for its expansion and -- and survival is

24 to deal with that stumbling block, he calls it, of

16:43 25 suppressive persons not being cordoned off effectively

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16:43 1 enough.

2 Q. And -- and are all Scientologists in good
3 standing today required by this document to -- to agree
4 with that or believe in that?

16:43 5 A. Yes. Comply with it.

6 Q. And -- and how would that affect, in your
7 opinion, their ability to be a fair and impartial
8 arbitrator?

9 MR. DEIXLER: Well, it calls for
16:43 10 speculation. He's testified he has no experience with
11 it, so, by definition, his -- his testimony seeks an
12 opinion that he's not qualified to render.

13 A. If they did anything to assist the suppressive
14 person, the person asking for a refund, which would mean
16:44 15 giving them any testimony that might help their --
their

16 position, they would be considered a suppressive person
17 and then be subject to the policies of harassment that
18 go with that.

19 MR. DEIXLER: Move to strike the answer as
16:44 20 without foundation.

21 Q. (BY MR. BABBITT) It would be --

22 MR. DEIXLER: Calls for speculation.

23 Q. (BY MR. BABBITT) Even if they were not --

24 MR. BABBITT: Excuse me. Let's not talk

16:44 25 over each other. I'm sorry. Were you done?

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16:44 1 THE WITNESS: Yeah.

2 Q. (BY MR. BABBITT) Okay. So even if they were
3 an arbitrator would they be required to have that
4 belief?

16:44 5 A. Absolutely.

6 MR. DEIXLER: It calls -- object to the
7 form of the question. It calls for speculation. No
8 foundation. And the witness has testified previously he
9 has no familiarity with an arbitration proceeding and,
16:44 10 therefore, is not qualified to render an opinion.

11 Q. (BY MR. BABBITT) Turn to the second page,
12 please.

13 A. Yeah.

14 Q. Read the first sentence, please.

16:44 15 A. A potential trouble source is defined as a
16 person who while active in Scientology or a PC yet
17 remains connected to a person or a group that is a
18 suppressive person or group.

19 Q. What -- what does that mean? What is "PC" and
16:45 20 what does that stand for?

21 A. A "PC" is a person who is receiving Scientology
22 counseling, which all Scientologists do, by definition,
23 and -- and otherwise it's pretty straight ahead, I
24 guess.

16:45 25 You're labeled a potential trouble source

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16:45 1 if you're connected to a suppressive person. Unless
2 your name is Rocio or Luis Garcia. They omitted that
3 step. They just -- if you look at their declare orders,
4 they were declared for having visited me. No -- no --

16:45 5 they didn't go through that second step. They just
6 immediately declared them a suppressive person for
7 primarily and chiefly for simply having seen me.

8 Q. Well, how would that --

9 MR. DEIXLER: Calls for speculation.

16:46 10 Q. (BY MR. BABBITT) -- have an affect --

11 MR. DEIXLER: No foundation.

12 THE WITNESS: It's an exhibit.

13 MR. DEIXLER: Move to strike the --

14 THE WITNESS: It's an exhibit and

16:46 15 you're -- that your -- that your client put in, in the
16 Ken Webber declaration.

17 MR. DEIXLER: Excuse me, sir.

18 Q. (BY MR. BABBITT) Mr. Rathbun, please don't
19 argue with him. His -- his objections are for the
16:46 20 record only. You can ignore them.

21 A. Okay.

22 Q. Okay. Now, how, if at all, would that sentence
23 affect an arbitrator who was a Scientologist in good
24 standing considering Mr. and Mrs. Garcia's claim that
16:46 25 the Church defrauded them?

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16:46 1 MR. DEIXLER: Object to the form of the
2 question. No foundation. This witness is not qualified
3 to render an opinion. He's made clear he has no
4 familiarity with an arbitration proceeding in the Church
16:46 5 of Scientology.

6 A. What it would mean is that if they were
7 connected with them in any way, which would be to
8 communicate with them, even to consider what they had to
9 say and give it any credence, they would be being a -- a
16:46 10 potential trouble source. And as the policy later makes
11 clear that if it's continued, they -- they themselves
12 are declared a suppressive person.

13 Q. (BY MR. BABBITT) Look two-thirds down the way
14 on that same page 2.

16:47 15 A. Okay.

16 Q. Do you see a sentence that begins, Suppressive
17 persons or groups relinquish... do you see that?

18 A. Yes.

19 Q. Would you read sentence?

16:47 20 A. Suppressive persons or groups relinquish their
21 rights as Scientologists by their very actions and may
22 not receive the benefits of the codes of the Church.

23 Q. What does that mean?

24 A. It means that once you're declared a
16:47 25 suppressive person you do not have access or the

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16:47 1 benefits of the justice system of the Church of
2 Scientology.

3 Q. And based on your 27 years experience with the
4 Church, how would that affect the ability of an
16:47 5 arbitrator who was a Scientologist in good standing to
6 hear, listen and find in favor of the Garcias?

7 MR. DEIXLER: Object to the form of the
8 question. There is no foundation. It seeks an opinion
9 which the witness has already testified he can't
16:48 10 formulate because he has no experience with arbitration
11 within the Church of Scientology.

12 Q. (BY MR. BABBITT) Go ahead, sir.

13 A. They're basically required to not afford them
14 any benefit in that capacity as an arbitrator.

16:48 15 Q. Could -- could they possibly -- could an
16 arbitrator who is a Scientologist in good standing in
17 light of this letter possibly find for the Garcias?

18 MR. DEIXLER: Object --

19 A. No.

16:48 20 MR. DEIXLER: -- to the form of the
21 question. There is no foundation. It calls for
22 speculation. The witness is not qualified to form an
23 opinion. Has testified he has no familiarity with
24 arbitration within the context of the Church of
16:48 25 Scientology.

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16:48 1 MR. BABBITT: You know, your objections
2 are re- -- retained. You're not necessary to voice them
3 every time unless it's to the form of the question.

4 MR. DEIXLER: I appreciate your advice,

16:48 5 but I'm going to --

6 MR. BABBITT: Excuse me, sir.

7 MR. DEIXLER: -- make objections.

8 MR. BABBITT: I am talking. Please don't
9 interrupt me.

16:48 10 MR. DEIXLER: Yeah.

11 MR. BABBITT: This is exactly what the
12 Judge meant in his order saying that anybody that
13 obstructed a deposition would be -- would be subject to
14 sanctions; and I'm asking you to please, unless you
16:49 15 object to the form of the question, don't interrupt.

16 MR. DEIXLER: Yeah. That's what I've been
17 doing. Objecting to the form of the question.

18 Q. (BY MR. BABBITT) Go ahead, sir. Would you --
19 did you -- Do you remember the question?

16:49 20 A. They couldn't possibly find -- make any finding
21 in -- in -- in favor of the person who's been declared a
22 suppressive person.

23 Q. And why do you say that?

24 A. Because that's what this policy letter says.

16:49 25 Because that's aiding or abetting or consoling or

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16:49 1 comforting a suppressive person which is a suppressive
2 act per this policy letter and others.

3 Q. Turn to page 4 for me, please, sir.

4 A. Okay.

16:49 5 Q. And the one, two, three, four -- fifth
6 paragraph that begins, Continued adherence to a person
7 or group... Would you read that sentence and the next
8 sentence.

9 A. Continued adherence -- Well, first of all, just
16:50 10 in context wise, this is the list of high crimes,
11 suppressive acts. This is a -- this is under section
12 suppressive acts, so these -- these are each a
13 suppressive act, which, if you commit, makes you a
14 suppressive person.

16:50 15 Continued adherence to a person or group
16 pronounced a suppressive person or group by HCO.
17 Failure to handle or disavow and
18 disconnect from a person demonstrably guilty of
19 suppressive acts.

16:50 20 Q. So what does that mean, all of that? What --
21 what -- what does it mean to be guilty of a high crime
22 and what does it mean in reference to a Scientologist in
23 good standing listening and -- and finding for the
24 Garcias?

16:50 25 MR. DEIXLER: Objection. It calls for

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16:50 1 speculation. No foundation.

2 A. These are dictates by L. Ron Hubbard that this
3 is the way you have to deal with a suppressive person,
4 and you must disavow, and you must disconnect, and you
16:51 5 must not adhere to them in any way, shape, manner or
6 form.

7 Q. (BY MR. BABBITT) Would that in any way affect
8 the ability of an arbitrator who is a Scientologist in
9 good standing to be an arbitrator with respect to the
16:51 10 Garcias?

11 MR. DEIXLER: Object to the form of the
12 question. There is no foundation. It calls for
13 speculation.

14 A. It would seem -- it would seem that would be
16:51 15 the case.

16 Q. (BY MR. BABBITT) Why is that?

17 A. Well, I -- because it could -- to find for them
18 or to -- to even treat them other than disavow,
19 disconnection and lack of adherence would be a
16:51 20 suppressive act in itself, and that person by doing so
21 would become a suppressive person.

22 Q. So then a -- an arbitrator who is a
23 Scientologist in good standing would have an interest in
24 the outcome of the -- of the arbitration?

16:51 25 MR. DEIXLER: Object to the form of the

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16:51 1 question. There is no foundation. Calls for
2 speculation and it is leading.

3 A. The interest clearly would be that they found
4 in the favor of the Church. Because if they didn't,
16:52 5 they would be guilty of a suppressive act and they'd
6 find themselves in the same position as the person who
7 was being persecuted by the Church.

8 Q. (BY MR. BABBITT) Turn to page 7 for me,
9 please.

16:52 10 A. Okay. I'm there.

11 Q. About two-thirds of the way down, It is a high
12 crime to publicly... Do you see that? Do you see, It is
13 a high crime to publicly depart Scientology?

14 A. Yes.

16:52 15 Q. And did the Garcias in fact do that?

16 A. You know, that's what Scientology claims.

17 I'm -- you know, ironically, they -- they departed the
18 organization. They had hoped that -- that -- that they
19 might be able to -- to change it from its ways, but, I
16:52 20 mean, up to point they were declared they -- I met with
21 them and they were very much supportive of Scientology
22 itself. It was the organization they had problems with.

23 MR. DEIXLER: Object to the form. Move to
24 strike his answer as nonresponsive.

16:53 25 Q. (BY MR. BABBITT) Turn -- turn to page 11,

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16:53 1 please.

2 A. Yep.

3 Q. If you look at the sentence just before the

4 line. Two-thirds of the way down, there's a --

16:53 5 A. Yes.

6 Q. -- a line. Do you see above where it says,

7 Civil court action... Could you read that, please?

8 A. Civil court action against suppressive persons

9 (SP's) to effect collection of moneys owed may be

16:53 10 resorted to as they are not entitled to Scientology

11 ethics procedures.

12 Q. What does that mean?

13 A. Well, it means that there's other codes within

14 Scientology that you can't sue another

16:53 15 Scientology through the civil -- Scientologist through

16 the civil courts. Two Scientologists in good standing.

17 And it's making the distinction that -- that basically

18 civil court action is open to -- if somebody's got a

19 beef against a SP -- because the SP can't be -- can't

16:54 20 use internal justice procedures, they're not available

21 to him by definition.

22 Q. An "SP" is a suppressive person like the --

23 like the Garcias?

24 A. Correct.

16:54 25 Q. During the last hearing Judge Whittemore asked

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16:54 1 the lawyers a question as to whether this arbitration
2 procedure was one way; that is, whether the Church would
3 be bound by it or only the Garcias would be potentially
4 bound by it.

16:54 5 Does this sentence make it clear that the
6 Church is not bound by the arbitration and can sue the
7 Garcias if they wish to?

8 MR. DEIXLER: Object to the form of the
9 question. There is no foundation and it calls for a
16:54 10 legal opinion for which this witness is unqualified to
11 render.

12 A. Yeah. In fact it requires that as being the
13 only means you could use; because you can't use internal
14 Church means against an SP.

16:55 15 Q. (BY MR. BABBITT) Well, because why?

16 A. Because the policy prevents it. This line
17 it -- this line and many other lines within -- within
18 policy says that -- that SP's may not resort to or
19 entitle -- be entitled to or benefit from the
16:55 20 Scientology ethics or justice procedures.

21 Q. What is a Committee of Evidence?

22 A. We already -- I think we already went through
23 that, didn't we? Oh, I did with him.

24 Q. Not you and I. Not with you and I.

16:55 25 A. A Committee of Evidence is a fact-finding

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16:55 1 justice body Ad Hoc in Scientology that -- for, you
2 know, more severe things that may -- may arise, severe
3 breaches of Scientology's sense of ethics or justice,
4 and it's -- usually consists of two members and a
16:55 5 chairman and maybe a secretary, and they answer to a
6 convening authority who convenes it and they decide
7 right, wrong, guilty, not guilty amongst Scientologists
8 in disputes.

9 Q. Does -- does that Committee of Evidence have
16:56 10 anything to do with refunds or donations?

11 A. No. As a matter of fact, it's -- by this very
12 policy we're going through and for the reasons stated up
13 till now, a Comm Ev is not -- a Committee of Evidence is
14 not available to a person asking for a refund.

16:56 15 Q. Are you familiar with the rules of the
16 Committee of Evidence?

17 A. Somewhat. I mean, I haven't studied them in
18 many years.

19 Q. Okay. But do you feel comfortable talking
16:56 20 about them or do you not have the background?

21 A. Sure. If you want to, yeah. I mean, I've got
22 a background. I was over, you know, the administration
23 of them for many years.

24 Q. Do the rules of the Committee of Evidence have
16:56 25 anything to do with this arbitration procedure in the

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16:56 1 Enrollment Agreement?

2 MR. DEIXLER: Calls --

3 A. No.

4 MR. DEIXLER: -- for -- Object to the form

16:56 5 of the question. And it calls for speculation and no
6 foundation, and calls for a legal conclusion.

7 A. No. If they wanted a Committee of Evidence to
8 be involved they would simply say there's a Committee of
9 Evidence, I would think. If they meant -- if they meant
16:57 10 for there to be a Committee of Evidence I think they
11 would put in there that the guy's required to have a
12 Committee of Evidence. Of course, they can't do that
13 because of the policy letter we're going through right
14 now.

16:57 15 Q. (BY MR. BABBITT) Turn to page 12.

16 A. Okay.

17 Q. And the second paragraph which starts, A
18 Committee of Evidence may be called...

19 A. Okay.

16:57 20 Q. Could you read that out loud for us?

21 A. A Committee of Evidence may be called by any
22 convening authority who wishes more concrete evidence of
23 efforts to suppress Scientology or Scientology --
24 Scientologists, but if such a committee's findings,
16:57 25 passed on, establish beyond reasonable doubt
suppressive

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16:57 1 acts, the -- this policy letter applies.

2 Q. Does that have anything at all to do with

3 someone asking for their money back?

4 A. I don't see that.

16:58 5 MR. DEIXLER: Calls for speculation. No

6 foundation. Move to strike his answer.

7 Q. (BY MR. BABBITT) Did you -- does -- do you --

8 Does asking for your money have anything to do with a

9 committee's findings of the Committee of Evidence?

16:58 10 A. No, it doesn't. And matter of fact, this

11 paragraph, if you look at it in context, is all about if

12 somebody's declared a suppressive they could ask for a

13 Committee of Evidence if they wanted to dispute that and

14 get back in and continue to grovel to Scientology.

16:58 15 Q. Turn to page 13, please.

16 A. Okay.

17 Q. Under Rights of a Suppressive Person or Group,

18 could you read that sentence that starts, A truly...?

19 A. A truly suppressive person or group has no

16:58 20 rights of any kind as Scientologists.

21 Q. And what does that mean?

22 A. That means that a suppressive person or group

23 may not -- say it just like I said at the beginning,

24 they're a non-person. They have no rights whatsoever as

16:59 25 a Scientologist. And I -- and I read it to say, when it

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16:59 1 says as a Scientologist, meaning you -- you can't -- you
2 can't request protection under the codes or you can't
3 request benefits under the codes or the procedures of
4 Scientology, including a Comm -- Committee of Evidence.

16:59 5 MR. DEIXLER: Move to strike the answer as
6 nonresponsive, without foundation and calling for
7 speculation.

8 Q. (BY MR. BABBITT) Is every -- every
9 Scientologist in good standing today required to
16:59 10 believe that; that a truly suppressive person or group
11 like the Garcias have no rights of any kind as
12 Scientologists?

13 MR. DEIXLER: Object to the form of the
14 question. No foundation. Calls for speculation.

16:59 15 A. Yeah. You know --

16 MR. DEIXLER: Incomplete hypothetical.

17 A. -- it's a little difficult to say what people
18 are required to believe or not. They're required to
19 abide by this. They're required to comply and act
17:00 20 according to -- accordingly to this.

21 Q. (BY MR. BABBITT) So if -- if a --

22 A. Whether they believe it or not, they must
23 comply and -- and -- and accord to this.

24 Q. So how, if at all, would that affect the
17:00 25 ability of a Scientologist in good standing to act as
an

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17:00 1 arbitrator with respect to the Garcias' claim of fraud
2 against the Church?

3 MR. DEIXLER: Calls for speculation. No
4 foundation. Object to the form of the question.

17:00 5 A. Well, they wouldn't be able to recognize the
6 person having any rights.

7 Q. (BY MR. BABBITT) Okay. Do we have -- is a --
8 Is a Scientologist in good standing permitted to
9 communicate with the Garcias in any form?

17:00 10 A. No.

11 Q. Why not?

12 A. This policy states it. If you have any
13 connection, adherence, communication then you're
14 committing a suppressive act, if you -- if you continue
17:01 15 to adhere or connect to or communicate with a
16 suppressive person.

17 Q. How then would a Scientologist in good standing
18 as an arbitrator listen to the testimony of the Garcias?

19 MR. DEIXLER: Object to the form of the
17:01 20 question. No foundation. Calls for speculation.

21 A. He couldn't.

22 Q. (BY MR. DEIXLER) Why not?

23 A. Because of that policy. He's not allowed to
24 communicate, adhere to, be connected to in any way,
17:01 25 shape, fashion or form a suppressive person.

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17:01 1 Q. Do you have HCO policy letter of March 17th,
2 1965?

3 A. Yes.

4 Q. Is it -- it should say on it, Organizational
17:01 5 Suppressive Acts?

6 A. Yeah. It's Exhibit B to my declaration.

7 Q. Okay.

8 MR. BABBITT: Do we have that marked,
9 please, Counsel? Or can we have it marked if it's not
17:01 10 marked, please?

11 MR. DEIXLER: It's -- I think it's all
12 part of -- of Exhibit No'd. 4. It's just one of the
13 exhibits to Exhibit No. 4.

14 THE WITNESS: So it's 4B.

17:02 15 Q. (BY MR. BABBITT) Okay. Great. Look at 4B,
16 page 2, please.

17 A. Okay.

18 Q. And read the second sentence, if you will. It
19 starts, Scientology deserves -- Scientologists
17:02 20 deserve...

21 A. Scientologists deserve protection from
22 psychotics and criminals, from suppressive persons and
23 covert or overt acts. Scientology protection is getting
24 more and more real and within a year or two will be
17:02 25 quite adequate -- adequate for anyone.

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17:02 1 Q. Is that still in full force and effect?

2 MR. DEIXLER: Calls for speculation. No

3 foundation. The witness has testified he hasn't been

4 in -- in the church since 2004.

17:02 5 A. It has been from my perspective of being over

6 all justice and external appears between '02 and '04,

7 and then being subjected to this kind of treatment on

8 the outside for the remaining period since 2004.

9 Q. (BY MR. BABBITT) Have you had personal

17:03 10 experience with respect to how you have been treated

11 by other Scientologists or Scientologists in good

12 standing?

13 A. Yes.

14 Q. And -- and -- and what -- how have you been

17:03 15 treated?

16 A. I've been treated exactly as per these policy

17 letters that we've been going through. But then a

18 number of other ones that are -- that are even more

19 aggressive and call for them to proactively go out and

17:03 20 try to silence me and destroy me utterly, of course, if

21 possible.

22 Q. Does this sentence compare a suppressive person

23 to a psychotic or a criminal -- I mean, equate them?

24 MR. DEIXLER: Calls for interpretation of

17:03 25 language which he's not qualified to provide, so

there's

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17:03 1 no foundation. Object to the form of the question and
2 calls for speculation.

3 A. It seems to do that. And there's numerous
4 other policies and lectures by Hubbard that -- that
17:04 5 makes them all sort of this one in the same ilk.

6 Q. (BY MR. BABBITT) Do you have the HCO policy
7 letter of October 16th, 1967, that's the --

8 A. Yeah. That's Exhibit C to Exhibit 4.

9 Q. Let's turn to the second page of that.

17:04 10 A. Okay.

11 Q. Do you see where it says, Ninety percent of the
12 people say...?

13 A. Yes.

14 Q. If you read that on down to the -- Well, go
17:04 15 ahead and read down to the bottom of the page.

16 A. Ninety percent of the people say, quote, Ethics
17 great, tech great, admin great, end of quote, and away
18 we go.

19 Ten percent say, Horrible horrible
17:04 20 horrible, quote/unquote, and cannot either see or
21 change. They are the truly -- true psychotics no matter
22 how sane, quote/unquote, they sound. The people in
23 institutions are generally only their victims.

24 This ten percent, one must be able to

17:05 25 detect and weed out so they don't contaminate areas we

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17:05 1 are bringing up in ethics, tech and admin.

2 Our policy is we don't waste time on them.

3 To cater to them is to betray ninety percent of the

4 population, so we set them aside for another day.

17:05 5 We get them off lines, off of orgs and --

6 and to one side.

7 The true character of these people is

8 usually masked in some ways. They are expert only in

9 deception and can take on any guise.

17:05 10 To listen to them one would suppose he was

11 talking to his best friend sometimes: Except the knife

12 in his back is also driven in by them.

13 Q. And does that apply to suppressives like the

14 Garcias?

17:05 15 A. It supply -- applies to all suppressives.

16 Q. And how, if at all, would that affect the

17 ability of a Scientologist in good standing to act as an

18 arbitrator in this case?

19 MR. DEIXLER: Calls for speculation. No

17:06 20 foundation. Object to the form of the question.

21 A. If -- if an arbitrator or somebody -- a

22 Scientologist in good standing under any -- any title

23 were to aid, communicate, adhere or assist them in any

24 way, fashion or form they would be in danger of being

17:06 25 declared suppressive themselves.

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17:06 1 Q. (BY MR. BABBITT) Does that include an
2 arbitrator finding for the Garcias?

3 MR. DEIXLER: Calls for speculation. No
4 foundation. Object to the form of the question.

17:06 5 A. Absolutely.

6 Q. (BY MR. BABBITT) Do you have HCO policy
7 letter of April 5th, 1965?

8 A. Yeah. It's Exhibit D to Exhibit 4.

9 Q. And read the -- what's the title of that?

17:06 10 A. HCO Justice Data Re Academy & HGC. Handling
11 the Suppressive Person. The Basis of Insanity.

12 Q. What does that mean?

13 A. God, I don't know. I mean, it's -- it's --
14 it's how to handle a suppressive person.

17:07 15 Q. Do Scientologists in good standing believe
16 suppressive persons are insane?

17 A. Yes.

18 Q. Well, do they -- are they required to believe
19 that?

17:07 20 A. Yeah. That's part of the definition of it. A
21 suppressive person is -- is insane, criminal psychotic.

22 Q. And what does the first sentence there say?

23 A. The suppressive person (whom we've called a
24 merchant of chaotic fear or chaos merchant and which we

17:07 25 can now technically call the suppressive person) can't

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17:07 1 stand the idea of Scientology.

2 Q. And how, if at all, would that affect the
3 ability of an arbitrator who is a Scientologist in good
4 standing to fairly hear the Garcias' claim?

17:07 5 MR. DEIXLER: Object to the form of the
6 question. No foundation. Calls for speculation.

7 A. I believe it would influence them not to pay
8 any heed to what they say.

9 Q. (BY MR. BABBITT) How about the last sentence?

17:07 10 Can you read that? These people aren't Communists...

11 A. These people aren't Communists or Fascists or
12 any ists. They are just very sick people. They easily
13 become parts of suppressive groups such as Communists or
14 Fascists because these groups, like criminals, are
17:08 15 suppressive.

16 Q. Does that apply to all suppressive people, all
17 people who have been declared suppressive?

18 A. I would assume so, yeah.

19 MR. DEIXLER: Move to strike the answer as

17:08 20 nonresponsive. No foundation. Calls for speculation.

21 Q. (BY MR. BABBITT) And how at all -- if at all,
22 would that affect the ability of an arbitrator who is
23 a Scientologist in good standing to arbitrate the --
24 the Garcias' claim?

17:08 25 MR. DEIXLER: Object to the form of the

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17:08 1 question. There is no foundation. Calls for
2 speculation.

3 A. I think it would add to all of the concerns
4 that we talked about earlier, that maybe they're by --
17:08 5 by giving person their refund or -- or ruling in their
6 favor would assist them to forward the aims of Communism
7 or Fascism or some terrorism or some other societal ill.

8 Q. (BY MR. BABBITT) Could you imagine in your
9 wildest imagine -- Strike that.

17:09 10 Do you believe that an arbitrator who is a
11 Scientologist in good standing could actually listen to
12 the testimony and find as a matter of fact that the
13 Church was guilty of fraud in the donations they
14 accepted from the Garcias?

17:09 15 MR. DEIXLER: Object to the form of the
16 question. It calls for speculation. There is no
17 foundation. It's an incomplete hypothetical in
18 addition.

19 A. Such a finding, if it were a Committee of
17:09 20 Evidence like they're asserting that they intended the
21 thing to be, it would never see the light of day;
22 because it would get to the International Justice Chief
23 (the IJC) and the person who made that recommendation
24 would be declared a suppressive before it ever got
17:09 25 published.

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17:09 1 MR. DEIXLER: Move to strike the answer as
2 speculative. No foundation.

3 Q. (BY MR. BABBITT) Do you have the
4 December 26th, 1966.

17:10 5 (Reporter clarification.)

6 A. Yeah. It's Exhibit E of Exhibit 4.

7 Q. (BY MR. BABBITT) And would you turn to
8 page 3?

9 A. Yes.

17:10 10 Q. And look down, the next to the last paragraph,
11 SP's are at war...

12 A. Yes.

13 Q. Would you read -- read that paragraph?

14 A. SP's are at war: Pleasant conduct, mean

17:10 15 conduct, any conduct at all is simply more war. So wage
16 the back -- back action as bat -- as a battle.

17 Q. What does that mean?

18 A. Well, you got to read the whole policy. I

19 mean, it talks about how you don't communicate with

17:10 20 them. The guy's a -- if the guy's a -- for example, a

21 revenue agent -- taking the example up here -- that he

22 comes in to look at the books, you make it as

23 uncomfortable as possible. You state something to the

24 effect that he's a government man. Announce it loudly

17:11 25 and everybody in the organization is to scowl at him
and

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17:11 1 make him feel unwanted and he'll probably blow off and
2 go away from you.

3 And so they're talking about tactics like
4 that to psychologically repel people who they have
17:11 5 determined are -- are suppressive.

6 Q. Do you think that would affect the ability of
7 an arbitrator who is a Scientologist in good standing to
8 find against the Church and find that they were guilty
9 of fraud?

17:11 10 MR. DEIXLER: Object to the form of the
11 question. There is no foundation. It calls for
12 speculation and it's an incomplete hypothetical.

13 A. Absolutely.

14 Q. (BY MR. BABBITT) How would it affect them?

17:11 15 MR. DEIXLER: Calls for speculation. No
16 foundation. Object to the form of the question.
17 Incomplete hypothetical.

18 A. It would affect them that it -- in addition to
19 everything else we've talked about, they would treat
17:11 20 them in an indic- -- in a -- a real rough fashion. If
21 they did actually go through one of these procedures,
22 before finding against them they would -- they would run
23 a lot of, quote, back action as a battle, end of quote,
24 psychological warfare on the person to -- to -- to try
17:12 25 to de-power them and to try to really upset them.

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17:12 1 Q. (BY MR. BABBITT) Is that what bat -- back
2 action as a battle means?

3 A. Yes. In the context of this policy letter. If
4 you read the whole thing, you'll see he actually gives
17:12 5 examples of it like the one about the revenue agent.

6 Q. Turn to -- I don't know the number, but it's
7 the October 18th, 1967.

8 A. Yeah. That's Exhibit F to Exhibit 4.

9 Q. Now, has this letter been withdrawn or
17:12 10 suspended at this point?

11 A. You know, I don't know if this particular one
12 has. I know that the -- that there is a policy sometime
13 in this time period where Hubbard said, The practice of
14 labeling people fair game, as per this policy letter,
17:13 15 shall no longer happen because it causes bad public
16 relations. However, the policies for handling
17 suppressives are not affected by that cancellation.

18 Q. Okay. Would you read the -- the part that
19 starts with Enemy...?

17:13 20 A. Enemy: SP Order. Fair game. May be deprived
21 of property or injured by any means by any Scientologist
22 without any discipline of the Scientologist. May be
23 tricked, sued or lied to or destroyed.

24 Q. Now, whether or not this has been withdrawn
17:13 25 formally is a Scientologist in good standing who might

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17:13 1 sit as an arbitrator in this case required to believe
2 that you can do this to a -- a suppressive person?

3 MR. DEIXLER: Calls for speculation. No
4 foundation. Incomplete hypothetical.

17:14 5 A. Well, you know, it's funny that -- that it
6 actually goes far beyond this. There's many more
7 policies in Scientology about dealing with suppressive
8 persons that make this look -- seem somewhat passive and
9 nonaggressive. So this is the least of it. They're
17:14 10 intended to -- there's many policies that -- that
11 require Scientologists to do whatever they can to -- to
12 destroy a suppressive person.

13 MR. DEIXLER: Move to strike the answer as
14 nonresponsive. Calls for speculation, in any event; and
17:14 15 there's no foundation to his testimony.

16 Q. (BY MR. BABBITT) Do you have the HCO policy
17 letter of August 13th, 1982?

18 A. Yeah. Nine -- I think it's '82. These numbers
19 are screwed up. It's Scientology Policy Directive 28?

17:14 20 Q. Let me see here.

21 A. Oh, yeah. 1982. That's correct.

22 Q. Yeah. Twenty-eight.

23 A. Yeah.

24 Q. Okay. Would you look at the third paragraph,

17:15 25 It is a suppressive act...?

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17:15 1 A. Yes.

2 Q. Could you read that?

3 A. It is a suppressive act to deal with a declared
4 suppressive person unless you are the named terminal to
17:15 5 deal with the SP (i.e. Scientology Organization MAA,
6 Master at Arms). Per the above ref- -- referenced
7 policy letter (PL) continued adherence to a person or
8 group accurately pronounced a suppressive person or
9 group by HCO is a suppressive act.

17:15 10 Q. Would the arbitrators who are Scientologists in
11 good standing be required to follow that -- that policy
12 letter?

13 MR. DEIXLER: Object to the form of the
14 question. There is no foundation. It calls for
17:15 15 speculation, and it's an incomplete hypothetical.

16 A. Yeah. I -- If they were actually going to do
17 this procedure -- Which, by the way, I've never seen in
18 my 22 years involved in these lines, never saw it ever
19 occur, an arbitration or a Comm Ev for a refund, but if
17:16 20 they were to do this, the IJC would actually have to
21 apply this in picking the people that were to
22 deal/interface with the suppressive person.

23 Just like they have sent waves of people
24 to my home for months at a time to confront me in the
17:16 25 streets and to harass my wife. And they call these

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17:16 1 people so that they have people they know are not going
2 to treat the suppressive with any type of defensiveness,
3 but people who are going to -- They're people that are
4 going to deal with them in a very strong, what they
17:16 5 call, unreasonable, high-confront manner. And so that's
6 what this means. This -- that, you know, if they're
7 going to -- the IJC would apply this in picking the
8 people for the arbitration. The people for the
9 arbitration would be people who -- who could really hate
17:17 10 that person (the suppressive person) and -- and -- and
11 show it and do it.

12 MR. DEIXLER: Object. Move to strike the
13 answer as nonresponsive. Lacks foundation. Purely
14 hypothetical. Calls for and provides speculation only.
17:17 15 Q. (BY MR. BABBITT) During the entire 27 years I
16 believe that you were a member of the Church,
17 including the 17 years you served as an employee --
18 Have I got that right?

19 A. Twenty.

17:17 20 Q. Twenty-seven years?

21 A. Twenty-seven -- twenty-seven years I was an
22 employee. I mean, I got in, in -- in September of '77.
23 I was on staff in January '78 for the rest of my way
24 through, so it was 27 years on staff employed.

17:17 25 Q. And how long were you with -- with the church?

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17:17 1 A. Twenty-seven years.

2 Q. Oh, okay. So the entire time you were
3 employed.

4 A. Pretty much. Three months I wasn't.

17:17 5 Q. Have you ever witnessed a single person invoke
6 arbitration? Have you ever heard of an arbitration
7 under this Enrollment Agreement ever taking place in the
8 church in that 27-year period or to the -- to date?

9 A. No.

17:18 10 MR. DEIXLER: Objection.

11 A. The only --

12 MR. DEIXLER: No foundation. Calls for
13 speculation.

14 A. No. The only arbitrations that I've ever aware
17:18 15 of ever happening were under a organization that the
16 Church created called World International Scientology
17 Enterprises, which are Scientology businessmen who have
18 business disputes with one another and they arbitrate
19 their dis- -- bus- -- business disputes over money. But
17:18 20 that's the only arbitrations. Never have I heard of an
21 arbitration being conducted by the Church of Scientology
22 proper and conduct -- and never an arbitration on a
23 refund nor even community -- Committee of Evidence on a
24 refund.

17:18 25 Q. (BY MR. BABBITT) Would it make any sense for

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17:18 1 someone who was seeking a refund to chose to do this
2 arbitration and choose three Scientologists in good
3 standing and expect to get a fair hearing?

4 MR. DEIXLER: Object to the form of the
17:19 5 question. No foundation. Calls for speculation.

6 A. That would -- would be pretty futile for the
7 person to do that.

8 MR. BABBITT: Okay. Ms. Reporter, that's
9 all the questions I have of this witness. How long was
17:19 10 my examination?

11 THE REPORTER: Give me just a second.

12 MR. BABBITT: All right.

13 THE REPORTER: Forty -- Approximately
14 forty-six minutes.

17:19 15 MR. BABBITT: So the total time we have
16 spent together asking questions is five hours and
17 forty-four minutes, plus forty-six?

18 THE REPORTER: Give or take a couple of
19 minutes, but yes.

17:21 20 MR. BABBITT: Okay. Let's see if I can --
21 so that's six hours and twenty-six minutes; is that
22 right, if I'm adding correctly? Six hours and fifty-six
23 minutes; is that right?

24 No. That's not right.

17:21 25 THE REPORTER: No. Just a minute.

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17:21 1 MR. BABBITT: Five hours and thirty -- six
2 hours and thirty minutes. Well, I'm done. You
3 can let -- I -- I can add it up myself.

4 THE REPORTER: It is six hours and thirty
17:21 5 minutes.

6 MR. BABBITT: All right.

7 MR. DEIXLER: All right. Let me take a
8 short break and see if I want to redirect.

9 MR. BABBITT: I don't know that you're
17:22 10 entitled to redirect, but go ahead and try and figure
11 out whether you want to.

12 MR. DEIXLER: Okay. We'll be back
13 momentarily.

14 THE VIDEOGRAPHER: The time is 5:22, we're
17:22 15 off the record.

16 (Short break taken.)

17 THE VIDEOGRAPHER: The time is 5:31, we
18 are back on the record.

19 MR. DEIXLER: I have no further questions.

17:31 20 MR. BABBITT: Do you want to have him
21 leave or read?

22 MR. DEIXLER: What do you think? What's
23 your -- what -- what's the -- what is -- what has been
24 done in the case heretofore? I'll do -- well, I'll

17:31 25 agree to whatever has been the practice between and

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17:31 1 among the lawyers.

2 MR. BABBITT: I -- I don't think we've had

3 a practice. We only had one deposition. And that was

4 of my client who could hardly speak English, so...

17:31 5 MR. DEIXLER: Oh, I was at that

6 deposition, I don't think that's accurate.

7 But what would you like to do? Would you

8 like the original -- You know what? Why don't -- why

9 don't we have the original of the deposition made

17:31 10 available to Mr. Rathbun for his review and correction,

11 and he will communicate with us any changes within -- I

12 don't know -- fifteen days? Is that possible for you,

13 Mr. Rathbun? Can you look at this deposition?

14 THE WITNESS: How soon will I get it; do

17:31 15 you think?

16 THE REPORTER: It'll be --

17 MR. BABBITT: Well, it's videoed. So, I

18 mean, if there's any errors we're going to use the video

19 not the paper anyway.

17:32 20 THE WITNESS: Yeah. But, you know, I -- I

21 really do want to have that right, because they're --

22 they've got so many lawsuits going on and they have a

23 pol- -- policy to misuse the discovery process for other

24 reasons and purposes. So I'd like to have the ability

17:32 25 to review it for major errors.

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17:32 1 MR. DEIXLER: Sure. We're happy to

2 provide that right. The question --

3 MR. BABBITT: Fine. Okay. It's your

4 choice.

17:32 5 MR. DEIXLER: Yeah. The question is, how

6 quickly can we get it? A week or so to him? I know

7 it's -- there's this holiday here. Do you think you can

8 get it to him in two weeks? Get it to him in two weeks

9 and then he'll have two weeks to look at.

17:32 10 THE WITNESS: Fair enough.

11 MR. DEIXLER: Okay. And you'll inform us

12 of any changes, and if -- if -- why don't you send the

13 original of the transcript back to me in case we need to

14 use it. Or if you won't do that, we can then use a

17:32 15 certified copy as though it were a signed original for

16 all purposes.

17 Is that okay with you, Mr. Babbitt?

18 MR. BABBITT: That's fine.

19 MR. DEIXLER: Okay. So stipulated, and

17:33 20 good afternoon.

21 THE VIDEOGRAPHER: That concludes the

22 deposition. The time is 5:33, we are off the record.

23 * * * * *

24

25

Mark C. Rathbun December 22, 2014

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1 CHANGES AND SIGNATURE

2 WITNESS: MARK C. RATHBUN DATE: 12-22-2014

3 PAGE LINE CHANGE REASON

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1 I, MARK C. RATHBUN, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4

C. RATHBUN, Witness

5 MARK

6 THE STATE OF _____)

7 COUNTY OF _____)

8 Before me, _____, on this day
9 personally appeared MARK C. RATHBUN, known to me (or
10 proved to me under oath or through _____)
11 (description of identity card or other document) to be
12 the person whose name is subscribed to the foregoing
13 instrument and acknowledged to me that they executed
14 the same for the purposes and consideration therein
15 expressed.

16 Given under my hand and seal of office this _____
17 day of _____, _____.

18

19 _____ Notary Public in and for the 20
State of _____.

21

22

23

24

25

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1 IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF FLORIDA 2 TAMPA
DIVISION

LUIS A. GARCIA SAZ and) 3 MARIA DEL ROCIO BURGOS,)
Plaintiff(s),) 4 VS.)

) NO. 8:13-CV-220-T27-TBM 5 CHURCH OF SCIENTOLOGY)) 6
RELIGIOUS TRUST; CHURCH OF) SCIENTOLOGY FLAG SERVICE) 7
ORGANIZATION, INC., Defendant(s).)) 8 REPORTER'S CERTIFICATION

DEPOSITION OF MARK C. RATHBUN 9 DECEMBER 22,
2014

10 I, DICIE LEE EYTCHESON, a Certified Shorthand
11 Reporter in and for the State of Texas, do hereby
12 certify that the foregoing deposition is a full, true
13 and correct transcript;
14 That the foregoing deposition of MARK C. RATHBUN,
15 the Witness, hereinbefore named was at the time named,
16 taken by me in stenograph on December 22, 2014, the
17 said Witness having been by me first duly cautioned
18 and sworn to tell the truth, the whole truth, and
19 nothing but the truth, and the same were thereafter
20 reduced to typewriting by me or under my direction.
21 () That by agreement of counsel, the deposition
22 officer is instructed to release the original
23 deposition transcript to the witness on
24 _____, for review and signature, and the
25 deposition officer is thereafter released of any

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1 further responsibility with regard to the original.
2 () That the Witness shall have fourteen (14) days
3 for review and signature of the original transcript
4 and if any corrections returned are attached hereto.

5 () That the signed transcript () was () was not
6 received from the Witness within 14 days.

7 That the amount of time used by each party at the
8 deposition is as follows:

9 Bert H. Deixler - 5 Hours, 45 Minutes

10 Theodore Babbitt - 46 Minutes

11 That before the completion of the deposition, the
12 Deponent, and/or the Plaintiff/Defendant did request
13 to review the transcript.

14 I further certify that I am neither counsel for,
15 related to, nor employed by any of the parties in the
16 action in which this proceeding was taken, and further
17 that I am not financially or otherwise interested in
18 the outcome of the action.

19 WITNESS MY HAND, this the _____ day of
20 _____, 2014.

21

22 _____ DICIE LEE EYTCHESON,
Texas CSR 5392 23 Exp. Date: 12/31/16 Firm No. 631

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Pedro Avenue, Suite 900

San Antonio, Texas 78232 25

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