

13 TRYING TO TALK TO EVERYBODY WHO MIGHT KNOW ABOUT THAT.  
14 Q SO BRINGING YOU BACK TO THE NOTES THERE, WERE  
15 THESE NOTES -- WHEN DID YOU TAKE THESE NOTES, MR. KADISH?  
16 A ON APRIL 23RD, 2005.  
17 Q IN RELATION TO THE CONVERSATION YOU HAD WITH  
18 MR. SUGARMAN ON THE PHONE?  
19 A CONTEMPORANEOUSLY.  
20 Q OKAY. SO THESE WERE NOTES YOU WERE TAKING WHILE  
21 YOU WERE TALKING TO DAVE SUGARMAN --  
22 A YES, AS I RECALL.  
23 Q -- ON APRIL 23, 2005?  
24 A YES, DEFENDANT'S 5, AS YOU'VE HANDED IT TO ME.  
25 Q NOW, IF -- IF YOU CAN, IF YOU COULD JUST LOOK

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1 THROUGH THOSE NOTES, AND I WANT TO ASK YOU SOME QUESTIONS  
2 ABOUT YOUR CONVERSATION WITH DAVE SUGARMAN. IF THOSE NOTES  
3 HELP YOU REFRESH YOUR RECOLLECTION ABOUT THAT CONVERSATION,  
4 PLEASE TAKE YOUR TIME TO LOOK THROUGH THAT.  
5 MS. ROSS: EXCUSE ME, YOUR HONOR. I JUST  
6 WANT TO SAY THAT I'D BE OBJECTING TO THE WITNESS  
7 TESTIFYING TO ANYTHING THAT MR. SUGARMAN SAID  
8 VERSUS WHAT HE SAID DURING THE CONVERSATION.  
9 THE COURT: THAT WOULD BE HEARSAY. SO YOU  
10 ASKED HIM WHAT SUGARMAN SAID TO HIM. UNLESS THERE  
11 IS AN EXCEPTION TO THE HEARSAY RULE, SHE'S GOT A  
12 GOOD OBJECTION.  
13 MR. MCGLASSON: MAY I BE HEARD, JUDGE?  
14 THE COURT: SURE. PROFESSOR KADISH WILL TELL

15 YOU THAT.

16 MR. MCGLASSON: WE DISAGREE, YOUR HONOR. IN  
17 THE FIRST PLACE, THE QUESTIONS I HAVE REGARDING  
18 WHAT MR. SUGARMAN TOLD PROFESSOR KADISH ARE --  
19 WILL BE STATEMENTS AGAINST PENAL INTEREST. SO  
20 THAT'S AN EXCEPTION -- CLEAR EXCEPTION TO THE  
21 HEARSAY RULE.

22 SECONDLY, WE'RE TAKING PROFESSOR KADISH OUT  
23 OF ORDER FOR THE REASONS WE'VE DISCUSSED EARLIER.  
24 WE HAVE REASON TO BELIEVE THAT MR. SUGARMAN,  
25 THOUGH HE WILL BE HERE -- HE'S BEEN SUBPOENAED, AS

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1 THE COURT IS AWARE, FROM OUT OF STATE, THAT HE MAY  
2 HIMSELF BE ASSERTING CERTAIN PRIVILEGES WITH  
3 RESPECT TO SOME PARTS OF THE FACTS ABOUT WHICH WE  
4 INTENDED TO QUESTION PROFESSOR KADISH SO THAT HE'S  
5 OTHERWISE THEN UNAVAILABLE.

6 SO FOR THOSE REASONS -- AND I GUESS FINALLY,  
7 YOUR HONOR, IT'S A PRETRIAL HEARING. THESE ISSUES  
8 GO TO THE HEART OF THE ALLEGATIONS THAT SURROUND  
9 THE MOTION FOR DISQUALIFICATION. AND CERTAINLY,  
10 THE COURT CAN, WITH ALL OF THOSE FACTORS IN MIND,  
11 ADDRESS THE CONCERNS OF THE HEARSAY RULE THROUGH  
12 HOW MUCH WEIGHT TO GIVE THE TESTIMONY AND THAT  
13 SORT OF THING.

14 THE COURT: HERE'S -- HERE IS MY RULING.  
15 I'LL OFFER A LEGAL RULING AND THEN A PRACTICAL

16 / nicholsmotions090308[1].txt  
ONE.

17 I HAVE HEARD WHAT YOU SAID ABOUT TAKING HIM  
18 OUT OF ORDER, AND I UNDERSTAND THAT. BUT IF SHE  
19 GETS UP AND SAYS -- AND ALL SHE NEEDS TO DO IS  
20 JUST ONE TIME. IF SHE GOES UP AND SAYS, "JUDGE,  
21 OBJECT TO HEARSAY," THEN SHE'S GOING TO -- I'M  
22 GOING TO SUSTAIN IT.

23 NOW, IT COULD VERY WELL BE THAT AFTER  
24 MR. SUGARMAN COMES UP, EITHER LATER TODAY OR  
25 WHENEVER YOU CALL HIM, PROFESSOR KADISH MAY BE

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1 CALLED BACK, AND PERHAPS WE HAVE AN UNAVAILABLE  
2 WITNESS IN MR. SUGARMAN. MAYBE WE HAVE  
3 IMPEACHMENT. MAYBE THERE ARE SOME OTHER THINGS.  
4 I HAVE -- I HAVE -- WE DON'T KNOW -- I THINK  
5 YOU'RE JUST ASSUMING SOME THINGS, AND I DON'T  
6 THINK WE CAN DO THAT. I THINK IN A MOTION  
7 HEARING, I'M COMFORTABLE ENOUGH IN A MOTION  
8 HEARING IF THEY DON'T OBJECT TO LISTENING TO THE  
9 TESTIMONY, GIVING IT WHATEVER WEIGHT I DEEM IT  
10 APPROPRIATE. HOWEVER, I CAN'T JUST DO AWAY WITH  
11 THE RULES OF EVIDENCE.

12 SO I THINK THAT'S WHERE WE STAND HERE WITH  
13 THE OBJECTION BECAUSE IF YOU ASK HIM -- I THINK WE  
14 WOULD ALL AGREE. IF YOU ASK HIM "WHAT DID  
15 SUGARMAN SAY TO YOU," THAT'S GOING TO BE HEARSAY,  
16 AND WITHOUT -- I KNOW WE THINK WE KNOW WHAT'S  
17 GOING TO HAPPEN. BUT WITHOUT THAT HAPPENING,

18 THAT'S GOING TO BE A GOOD OBJECTION. SO THAT'S  
19 WHERE WE STAND, AND WE'LL SEE WHERE WE GO FROM  
20 THERE. SO YOU CAN ASK THE FIRST QUESTION. IF  
21 MS. ROSS STANDS UP, THEN I THINK WE KNOW THE  
22 ANSWER.

23 MR. MCGLASSON: YOUR HONOR, WE'LL FOLLOW THE  
24 COURT'S RULING, ALTHOUGH GIVEN -- I THINK  
25 EVERYTHING I UNDERSTAND YOU TO SAY AND PROFESSOR

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1 KADISH'S SITUATION, WHAT I WOULD RESPECTFULLY  
2 RECOMMEND IS THAT WE TAKE THE TESTIMONY WITH --  
3 OVER THE OBJECTIONS AS A PROFFER SO THAT WE DON'T  
4 HAVE TO BE HAVING PROFESSOR KADISH COMING BACK AND  
5 FORTH.

6 WE'LL PROFFER, OR I CAN STAND HERE TO PROFFER  
7 IT TO THE COURT. I THINK IT WOULD BE PREFERABLE  
8 IF THE WORDS CAME FROM PROFESSOR KADISH, AND TO DO  
9 THAT, WHETHER OR NOT IT'S ADMITTED BEFORE THIS  
10 COURT, WE WILL INTEND TO PROFFER THIS INFORMATION  
11 FOR ANY APPELLATE RECORD IRRESPECTIVE, OR EVEN IN  
12 CONSIDERATION OF THE COURT'S RULING FOR THE RECORD  
13 AND FOR ANY APPELLATE PURPOSES.

14 THE COURT: SO YOU WOULD SAY -- YOU WOULD SAY  
15 BECAUSE OF MR. KADISH'S MEDICAL CONDITION, BECAUSE  
16 OF HIS MEDICAL CONDITION, EVEN IF SHE GETS UP AND  
17 OBJECTS, AND EVEN IF I SUSTAIN THE OBJECTION, TO  
18 GO AHEAD AND LISTEN TO IT. AND THEN LATER ON IF

19 IT TURNS OUT THAT IT'S IMPEACHMENT, THEN I WOULD  
20 CONSIDER IT. AND IF I -- IF -- IN FACT, AT THE  
21 VERY END OF THIS HEARING, I FIND THAT'S HEARSAY,  
22 NO PROBATIVE VALUE, I WOULD JUST -- WE'VE HEARD  
23 IT, AND IT'S ON THE RECORD FOR YOUR PROTECTION,  
24 BUT I JUST WOULDN'T CONSIDER IT?

25 MR. MCGLASSON: CORRECT, AND THEN THE REMEDY

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1 COULD BE FOR THE STATE TO MOVE TO STRIKE THE  
2 TESTIMONY, AND YOUR HONOR COULD RULE ON THAT AT  
3 THAT TIME. AND THEN WE'D HAVE THE PROFFER OF THE  
4 RECORD AS WELL. THAT WOULD MAKE THE MOST SENSE TO  
5 ME.

6 THE COURT: MS. ROSS, DO YOU HAVE ANY  
7 OBJECTION TO HANDLING IT THAT WAY?

8 MS. ROSS: YOUR HONOR, I WILL DEFER TO THE  
9 COURT, AND THAT'S FINE. I JUST WANT TO MAKE SURE I  
10 UNDERSTAND. THE DEFENSE STATED THAT MR. SUGARMAN,  
11 AT THIS TIME, IS UNDER SUBPOENA FOR THIS HEARING?

12 MR. MCGLASSON: YES, WE ARE, YOUR HONOR.

13 MS. ROSS: OKAY.

14 THE COURT: AND HE'S GOING TO BE CALLED;  
15 RIGHT?

16 MR. MCGLASSON: THAT'S CORRECT, YOUR HONOR,  
17 TOMORROW.

18 THE COURT: OKAY. YEAH. YEAH. OKAY. SO  
19 HE'S GOING TO BE HERE. NOW --

20 MR. MCGLASSON: WHAT HE'S GOING TO SAY, YOUR  
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21 HONOR, IS ANOTHER QUESTION, BUT THERE HAS BEEN  
22 THIS LITIGATION SURROUNDING OUT-OF-STATE  
23 SUBPOENAS. THERE MAY BE SOME QUESTIONS ABOUT THE  
24 ASSERTION OF PRIVILEGE, AND WE'LL JUST HAVE TO  
25 FIND OUT WHEN HE GETS HERE.

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1 THE COURT: OKAY. MAYBE -- MAYBE HE AND  
2 MR. MARSHALL WILL GET TOGETHER AND DECIDE WHAT  
3 THEY'RE GOING TO BE DOING.  
4 ALL RIGHT. SO WE'LL -- SO WE'LL DO THIS.  
5 WE'LL JUST -- WE'LL JUST ASSUME THAT EVERY TIME  
6 THERE IS A HEARSAY OBJECTION, MS. ROSS WOULD  
7 HAVE -- THEY'LL HAVE A STANDING CONTINUING  
8 OBJECTION.  
9 AND MUCH LIKE MAYBE A PRELIMINARY HEARING,  
10 WE'LL HEAR HEARSAY, AND THEN AT THE VERY END AFTER  
11 THE END OF THE HEARING, MS. ROSS CAN GET UP AND  
12 SAY, "JUDGE, I WILL NOW INSIST ON THESE QUESTIONS  
13 THAT WOULD NOT BE ALLOWED INTO EVIDENCE, I INSIST  
14 THAT YOU -- ALTHOUGH THEY'LL BE PART OF THE RECORD  
15 THAT YOU STRIKE THEM FOR YOUR CONSIDERATION." AND  
16 THEN AT THAT POINT, YOU COULD ARGUE. AND THAT  
17 WAY, YOU CAN GET IN ALL -- EVERYTHING YOU NEEDED.  
18 MR. MCGLASSON: THANK YOU, JUDGE.  
19 THE COURT: ALL RIGHT. THAT'S A GOOD WAY TO  
20 DO IT.  
21 MR. MCGLASSON: THANK YOU, JUDGE.

22 BY MR. MCGLASSON:

23 Q HAVE YOU HAD A CHANCE TO REVIEW THE NOTES WHILE  
24 WE'VE BEEN TALKING, PROFESSOR KADISH?

25 A YES.

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1 Q OKAY. SO THE MAIN QUESTION I HAVE, AND IT'S GOING  
2 RIGHT TO WHAT WE'VE JUST DISCUSSED IS, TO HAVE YOU RELATE TO  
3 THE COURT WHAT DAVE SUGARMAN TOLD YOU REGARDING THE  
4 ALLEGATIONS THAT YOU REFER TO IN THE WIRE TAP REGARDING ANY  
5 RELATIONSHIP HE MAY HAVE HAD WITH GAYLE ABRAMSON AND SO  
6 FORTH.

7 DID HE TELL YOU HE KNEW GAYLE ABRAMSON?

8 A YES.

9 Q HOW -- DID HE TELL YOU HOW THEY MET?

10 A I THINK -- HE SAID THAT THEY FIRST MET IN THE FALL  
11 OF 2004, I THINK, WHEN SCOTT DAVIS AND HE CAME HERE FROM  
12 PALO ALTO FOR A GS -- I MEAN FOR A UNIVERSITY OF GEORGIA  
13 FOOTBALL GAME.

14 Q AND WHERE DID THEY MEET? WHAT WAS THE CONTEXT?

15 A THEY FIRST MET IN ATLANTA ON A FRIDAY EVENING IN  
16 THE COURSE OF PARTYING WITH A BUNCH OF OTHER PEOPLE.

17 Q DID HE RELATE TO YOU WHO WAS WITH HIM WHEN THEY  
18 FIRST MET?

19 A WELL, I THINK IT WAS SCOTT DAVIS HE MENTIONED WAS  
20 WITH HIM. I DON'T REMEMBER WHETHER HE SAID ANOTHER FRIEND  
21 OF THEIRS NAMED WARD KELLY MAY HAVE BEEN WITH THEM. AND  
22 THEN THERE WERE JUST A BUNCH OF OTHER PEOPLE FROM ATLANTA  
23 THAT SCOTT KNEW, AND I CAN'T REMEMBER NOW HOW SUGARMAN -- I

24 WAS INTERACTING WITH THESE PEOPLE. I DON'T KNOW IF HE KNEW  
25 SOME OF THEM FROM PRIOR VISITS OR HE HAD SOME OTHER CONTACTS

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1 WITH HIM BECAUSE HE WAS -- HAD BEEN IN ATLANTA BEFORE. I  
2 JUST DON'T REMEMBER THAT.

3 Q YOU TESTIFIED THIS WAS AT A PARTY HERE IN THE FALL  
4 OF '04?

5 A YES.

6 Q DID HE --

7 A THE FIRST -- THE FIRST STOP I THINK THEY MADE ON  
8 FRIDAY NIGHT WAS AT A CLUB, AND I THINK HE SAW HER AT THE  
9 CLUB. AND THEN THEY WENT AND HE MET HER AGAIN -- HE WASN'T  
10 WITH HER. HE JUST SAW HER AGAIN IN A HALLWAY AT A  
11 PRIVATE -- ANOTHER PARTY, A PRIVATE PARTY, NOT AT THE CLUB.

12 AND IT WAS A HOUSE PARTY, AND HE SAW HER THERE ON  
13 THE BACK PORCH, AND MR. SUGARMAN TOLD ME THAT THEY TALKED  
14 FOR A WHILE. AND SHE SAID TO HIM, "I AM TAKING YOU HOME,"  
15 AND THEY WENT TO HER CONDO, WHICH WAS JUST A FEW -- YOU  
16 KNOW, A SHORT DRIVE AWAY, AND -- AND HE HAD BEEN AT THE  
17 PARTY ABOUT 45 MINUTES.

18 Q DID HE TELL YOU -- IS THIS THE FIRST TIME HE MET  
19 GAYLE ABRAMSON?

20 A AS FAR AS I KNOW.

21 Q UH-HUH. DID HE EVER LEARN ON THIS FIRST MEETING  
22 OF WHAT HER JOB WAS AT THAT TIME?

23 A I DON'T -- I CAN'T ANSWER THAT QUESTION  
24 AFFIRMATIVELY. ALL I CAN SAY IS THAT HE TOLD ME THAT HE

25 LEARNED SOME TIME -- HE KNEW BY THE END OF THAT WEEKEND THAT

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1 SHE WAS AN ADA. AND HE TOLD ME THAT ON SATURDAY NIGHT, THEY  
2 GOT TOGETHER AGAIN AFTER THE FOOTBALL GAME, BUT BACK IN  
3 ATLANTA.

4 SCOTT DAVIS AND WHOEVER WAS WITH THEIR GROUP AND  
5 SUGARMAN WENT TO THE GAME IN ATHENS AND THEN CAME BACK TO  
6 ATLANTA. AND HE WENT TO HER APARTMENT FOR A SECOND TIME,  
7 AND I BELIEVE THAT IT WAS EITHER THIS TIME -- LET ME LOOK AT  
8 MY NOTES FOR A MINUTE.

9 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)

10 THE WITNESS: OKAY. I THINK IT WAS THE FIRST  
11 EVENING THAT I MENTIONED WHEN THEY WERE AT THE  
12 PRIVATE PARTY THAT HE WENT BACK TO THERE, BACK TO  
13 HER APARTMENT AND SAID THAT SHE TOOK OUT FOUR  
14 LINES OF COCAINE, AND SHE SPRINKLED THE COCAINE ON  
15 TOP OF HER DISTRICT ATTORNEY'S BADGE, AND THAT'S  
16 WHEN HE KNEW THAT SHE WAS DISTRICT ATTORNEY FOR  
17 SURE.

18 BY MR. MCGLASSON:

19 Q SO THIS WAS THE FIRST NIGHT THEY WERE TOGETHER IN  
20 HER APARTMENT THAT THAT OCCURRED?

21 A YES.

22 Q DID HE TELL YOU WHERE THE COCAINE HAD BEEN TAKEN  
23 FROM, WHERE SHE GOT THAT FROM PHYSICALLY? THAT IS, IN HER  
24 APARTMENT?

25 A I DON'T SEE IT IN MY NOTES, AND I HAVE NO

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1 INDEPENDENT RECOLLECTION OF IT.

2 Q DID HE SAY WHETHER IT WAS HER DRUGS THAT SHE HAD  
3 PROVIDED OR IF HE HAD BROUGHT WITH HIM?

4 A HE SAID IT WAS HERS.

5 Q AND THIS WAS COCAINE?

6 A HE SAID IT WAS COCAINE.

7 Q AND WHAT DID HE SAY HAPPENED WITH THE COCAINE THAT  
8 EVENING?

9 A THEY BOTH INGESTED SOME.

10 Q DO YOU RECALL WHETHER HE TOLD YOU IF ANY  
11 PHOTOGRAPHS WERE TAKEN ON THAT OCCASION OR ANY OTHER TIME HE  
12 WAS WITH HER?

13 A YES.

14 Q DO YOU REMEMBER WHERE THOSE PHOTOGRAPHS WERE  
15 TAKEN?

16 A IN THAT APARTMENT.

17 Q DO YOU KNOW WHO -- DID HE TELL YOU WHO TOOK THEM?

18 A HE DID.

19 Q WITH WHAT DEVICE?

20 A A CAMERA.

21 Q WAS IT A PHONE CAMERA, OR A REGULAR CAMERA, OR DO  
22 YOU REMEMBER?

23 A I DON'T KNOW.

24 Q DID HE TELL YOU WHAT ELSE HAPPENED THAT EVENING?

25 THE FIRST TIME THEY WERE TOGETHER ON THAT FRIDAY NIGHT IN

1 THE FALL -- OKAY -- YEAH, I THINK YOU SAID IT WAS FALL OF  
2 '04?

3 A I'M NOT SURE -- I'M NOT SURE I UNDERSTAND WHAT YOU  
4 MEAN BY "WHAT ELSE HAPPENED."

5 Q WELL, I THINK YOU SAID THAT JUST SO I'M -- WE'RE  
6 ON THE SAME PAGE, THEY MET, YOU KNOW, OUT SOMEWHERE, MAYBE  
7 AT A BAR AND/OR THEN LATER AT A PARTY. THEY WENT BACK TO  
8 HER APARTMENT. I'D ASKED YOU IF HE EVER LEARNED SHE WAS  
9 A -- WHAT HER EMPLOYMENT WAS. AND YOU MENTIONED THAT SHE  
10 PULLED OUT HER BADGE AND THEY'D DONE OR SNORTED LINES OF  
11 COCAINE OFF THE BADGE?

12 A I DIDN'T SAY THAT THEY SNORTED LINES OFF OF THE  
13 BADGE. ALL I SAID WAS THEY INGESTED SOME.

14 Q DID YOU UNDERSTAND HOW THEY INGESTED IT?

15 A NO.

16 Q OKAY. WELL, WHAT I WANT TO KNOW THEN IS, DID HE  
17 TELL YOU WHAT HAPPENED AFTER THAT THAT EVENING, IF ANYTHING?

18 A WELL, THE NEXT DAY HE WENT TO ATHENS WITH DAVIS  
19 AND I THINK THIS GUY -- HELP ME WITH HIS NAME. I JUST  
20 FORGOT IT. I CAN'T REMEMBER THE NAME. I JUST -- OH, KELLY,  
21 WARD KELLY, AND THEY WENT WITH -- THEY ALL WERE IN ATHENS.  
22 THERE MAY HAVE BEEN SOME SOME PEOPLE AROUND. IF THEY WERE,  
23 I DON'T HAVE THEIR NAMES. THAT WASN'T GERMANE TO WHAT I WAS  
24 INTERESTED IN.

25 AND THEN THAT -- AFTER THE GAME, HE CAME BACK

1 AGAIN, AND HE GOT TOGETHER WITH HER A SECOND TIME.

2 Q AND DID HE TELL YOU WHERE THAT WAS?

3 A HER APARTMENT.

4 Q DID HE SAY WHERE THEY MET UP AGAIN ON SATURDAY  
5 EVENING?

6 A JUST LET ME SEE. HE SAID HE CALLED HER BY PHONE,  
7 AND SHE WANTED TO MEET AND THEY -- FIRST -- THEN THEY WENT  
8 TO A PARTY AT I THINK, AS HE PUT IT, A STRANGER'S HOUSE,  
9 SOMEBODY THAT HE DIDN'T KNOW. BUT THAT'S WHERE EVERYBODY  
10 WAS, WHERE DAVIS WAS. AND IT WAS -- I THINK THIS PERSON WAS  
11 UNKNOWN TO THE MALES OR AT LEAST UNKNOWN TO SUGARMAN, BUT  
12 WAS KNOWN TO GAYLE AS A FRIEND OF HERS. THEY HAD DRINKS  
13 THERE AND HAD, YOU KNOW, DISCUSSIONS THERE AND THEN WENT  
14 BACK TO HER HOUSE, HER APARTMENT, I GUESS IT WAS OR CONDO.

15 Q DID HE SAY -- DID MR. SUGARMAN TELL YOU WHETHER --  
16 WHAT ELSE THEY DID THAT NIGHT AT HER APARTMENT, THAT SECOND  
17 NIGHT?

18 A THEY MADE DRINKS, AND I THINK HE SAID THEY TOOK  
19 OUT ONE LINE OF COCAINE, AND THEY INGESTED SOME.

20 Q WERE THERE ANY OTHER DRUGS MENTIONED BY  
21 MR. SUGARMAN THAT WERE USED THAT NIGHT?

22 A JUST LET ME HEAR THAT QUESTION AGAIN, PLEASE.

23 Q ANY OTHER ILLEGAL DRUG SUBSTANCES THAT  
24 MR. SUGARMAN MENTIONED THAT EITHER OF THEM USED ON THAT  
25 SECOND NIGHT?

1 A YES.

2 Q AND WHAT WERE THOSE?

3 A ECSTASY.

4 Q AGAIN, DID HE TELL YOU WHO PROVIDED -- FIRST, THE  
5 COCAINE THAT WAS USED THAT NIGHT?

6 A SHE DID.

7 Q AND THE ECSTASY?

8 A SHE HAD THE PILL, AND APPARENTLY BROKE IT IN HALF,  
9 BUT I DON'T KNOW -- MY NOTES DO NOT SHOW, AND I DON'T HAVE  
10 ANY INDEPENDENT RECOLLECTION WHERE IT CAME FROM, WHO GAVE IT  
11 TO HER OR WHAT.

12 Q WAS IT CLEAR TO YOU THAT MR. SUGARMAN DID NOT  
13 PROVIDE EITHER OF THE ILLEGAL SECTIONS THAT NIGHT?

14 A NO, IT WASN'T CLEAR -- IT WAS CLEAR TO ME THAT HE  
15 DID NOT PROVIDE THE COCAINE. I CAN'T -- MY NOTES DO NOT  
16 REFLECT ANY MORE ABOUT THE ECSTASY, OTHER THAN WHAT I TOLD  
17 YOU.

18 Q IF I COULD REFER YOU TO THE THIRD PAGE IN THAT --  
19 MAY I APPROACH, YOUR HONOR?

20 THE COURT: YES.

21 (WHEREUPON, THERE WAS AN OFF-THE-RECORD  
22 DISCUSSION.)

23 BY MR. MCGLASSON:

24 Q LOOKING AT THAT FIRST MAJOR PARAGRAPH ABOUT THE  
25 FOURTH LINE DOWN, DOES THAT REFRESH YOUR RECOLLECTION ABOUT

1 WHO WAS SUPPLYING THE ECSTASY THAT EVENING?

2 A NOT NECESSARILY. THE ONLY THING MY NOTES SAY WAS

3 THAT MS. ABRAMSON ASKED SUGARMAN TO DO THE ECSTASY.

4 Q UH-HUH.

5 A BUT I CAN'T TELL YOU WHERE IT CAME FROM.

6 Q OKAY. DID MR. SUGARMAN TELL YOU WHETHER OR NOT HE

7 AND MS. ABRAMSON HAD BEEN INTIMATE ON EITHER OF THESE

8 NIGHTS?

9 MS. ROSS: OBJECTION, YOUR HONOR, IRRELEVANT.

10 THE COURT: AS TO RELEVANCE.

11 MR. MCGLASSON: WELL, YOUR HONOR, I MEAN

12 THE -- WHAT'S GOING TO COME LATER, AND INDEED, I

13 BELIEVE THROUGH ONE EXHIBIT ALREADY INTRODUCED

14 TODAY, IS A PRESS RELEASE FROM MS. ABRAMSON IN

15 WHICH SHE'S CLAIMING, AS I READ THE PRESS RELEASE,

16 THAT CERTAIN ACTIVITIES OCCURRED IN WHICH SHE WAS

17 VICTIMIZED, AND THAT PERHAPS MR. SUGARMAN AND/OR

18 ASSOCIATES OF HIS HAD SOME ROLE IN THAT

19 VICTIMIZATION.

20 AND IN ORDER TO ADDRESS THAT AND PRESENT

21 INFORMATION TO CONTEST THAT ALLEGATION, I NEED TO

22 ESTABLISH THROUGH TESTIMONY THAT THERE WAS A

23 PRE-EXISTING RELATIONSHIP HERE THAT INVOLVED

24 INTIMACY THAT MAY DISCREDIT A CLAIM OF

25 VICTIMIZATION, AT LEAST WITH RESPECT TO

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1 MR. SUGARMAN AND/OR ASSOCIATES OF HIS.

2 MS. ROSS: YOUR HONOR, I DON'T BELIEVE THAT

3 MS. ABRAMSON EVER ACCUSED MR. SUGARMAN OF

4 VICTIMIZING HER, SO IT WOULD NOT BE RELEVANT.

5 THE COURT: I'M GOING TO ALLOW IT.

6 MR. MCGLASSON: THANK YOU, YOUR HONOR.

7 BY MR. MCGLASSON:

8 Q YOU HEARD THE QUESTION?

9 A YES. ON BOTH NIGHTS THEY HAD SEX. THAT'S WHAT  
10 SUGARMAN SAID.

11 Q AND DID MR. SUGARMAN MAKE IT CLEAR THAT WAS  
12 CONSENSUAL?

13 A I MEAN I DIDN'T ASK HIM WHAT IT WAS. HE JUST TOLD  
14 ME THAT THEY HAD SEX THAT NIGHT. I MEAN I ASSUMED IT WAS  
15 CONSENSUAL ONLY BECAUSE HE DIDN'T SAY OTHERWISE.

16 Q OKAY. SO THEN, DID MR. SUGARMAN TALK WITH YOU  
17 ABOUT ANY OTHER OCCASIONS IN WHICH HE WAS WITH GAYLE  
18 ABRAMSON?

19 A YES.

20 Q CAN YOU EXPLAIN?

21 A AFTER THAT WEEKEND, HE APPARENTLY INVITED HER TO  
22 COME OUT TO PALO ALTO TO BE WITH HIM FOR THE HALLOWEEN  
23 WEEKEND. I DON'T KNOW EXACTLY. I GUESS IT WAS AROUND  
24 OCTOBER 31ST OF 2004, AND THEN BETWEEN THE EARLIER VISIT  
25 WHEN HE WENT TO ATLANTA AND THIS SECOND VISIT WHEN SHE CAME

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1 TO PALO ALTO, THEY HAD APPARENTLY TALKED BY PHONE AND  
2 CONVERSED BY E-MAIL ON SEVERAL OCCASIONS.

3 Q OKAY. SO HE TOLD YOU THAT MS. ABRAMSON MADE A  
4 TRIP TO CALIFORNIA LATER IN THE MONTH?

5 A RIGHT.

6 Q DID HE TELL YOU WHAT HAPPENED? DID THEY GET  
7 TOGETHER DURING THAT TRIP?

8 A YES.

9 Q DID HE TELL YOU ANYTHING ABOUT THE CIRCUMSTANCES  
10 OF THEIR MEETING OUT IN CALIFORNIA?

11 A YES. AFTER THE PLANS WERE FINALIZED, MR. SUGARMAN  
12 TOOK A ROOM AT A SAN FRANCISCO HOTEL OR MOTEL, WHICH I THINK  
13 WAS PROXIMATE TO THE AIRPORT, AND THEY APPARENTLY MET FOR  
14 DINNER THE FIRST NIGHT THAT SHE ARRIVED. NOW, I DON'T KNOW  
15 WHAT NIGHT OF THE WEEK THAT WAS, BUT WHATEVER. I THINK IT'S  
16 A FRIDAY. SO MR. SUGARMAN STAYED AT THAT HOTEL -- I DON'T  
17 KNOW THE NAME OF IT -- FRIDAY NIGHT WITH HER, AND THERE WAS  
18 SOME DISCUSSIONS THAT -- BETWEEN THE TWO OF THEM THAT IT HAD  
19 BEEN WRONG FOR HER TO HAVE SEX WITH HIM ON THE PRIOR WEEKEND  
20 IN ATLANTA. AND SO SHE DIDN'T WANT TO HAVE SEX WITH HIM ON  
21 THAT FRIDAY NIGHT. SO HE CLAIMS HE DIDN'T ARGUE THE POINT  
22 WITH HER. THEY SLEPT IN THE SAME BED, AND THEY HAD NO SEX  
23 AND HAD NO DRUGS.

24 SATURDAY NIGHT, THEY ENDED UP -- LET'S SEE.  
25 SATURDAY NIGHT, THEY STAYED TOGETHER AGAIN AT THAT HOTEL,

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1 AND FROM THE BEST I CAN UNDERSTAND FROM MY NOTES, AS THEY  
2 REFRESH MY RECOLLECTION, MR. SUGARMAN TOLD ME THAT SHE HAD A  
3 CONVERSATION WITH A FRIEND OF HERS IN PALO ALTO, WHOSE NAME  
4 I DON'T HAVE AND WHOSE ADDRESS I DON'T HAVE, ABOUT SEX. AND  
5 THEN SHE TURNED TO HIM AFTER THIS CONVERSATION AND SAID THAT  
6 THE DISCUSSION THE NIGHT BEFORE REALLY HAD BEEN SILLY, THAT

7 THEY HAD SEX BEFORE, SO THEY MIGHT AS WELL HAVE SEX AGAIN,  
8 AND THEY DID. NO DRUGS WERE USED THAT DAY -- THAT NIGHT.

9 Q DID THEY ATTEND ANY PARTIES WHILE THEY WERE  
10 TOGETHER IN THE BAY AREA ON THIS TRIP THAT MS. ABRAMSON MADE  
11 TO CALIFORNIA?

12 A MY NOTES REFLECT THAT THEY WENT TO THE HALLOWEEN  
13 PARTY, WHICH WAS AT THE COW PALACE, WHICH WAS -- WHICH IS IN  
14 SAN FRANCISCO. IT'S A -- YOU KNOW, I GUESS IT'S A LARGE  
15 AUDITORIUM OR CONVENTION CENTER-TYPE OF PLACE.

16 Q AND DID MR. SUGARMAN TELL YOU WHAT HAPPENED AT  
17 THIS PARTY AT THE COW PALACE?

18 A YES.

19 Q WHAT DID HE SAY?

20 A WELL, APPARENTLY, SHE HAD AGREED TO GO WITH HIM TO  
21 THE COW PALACE. APPARENTLY IT'S A MAJOR, HUGE EVENT IN SAN  
22 FRANCISCO FOR PEOPLE WHO WANT TO DRESS UP IN COSTUMES AND GO  
23 TO THE PARTY. SO AS BEST I CAN DETERMINE FROM MY NOTES,  
24 SCOTT DAVIS APPARENTLY HIRED A LIMOUSINE AND PICKED UP  
25 MR. SUGARMAN AND GAYLE ABRAMSON AND HEADED TOWARD THE COW

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1 PALACE.

2 AND WHEN THEY GOT THERE, IT WAS EXTREMELY CROWDED  
3 AND DISORGANIZED, AND SHE -- ACCORDING TO SUGARMAN,  
4 MS. ABRAMSON BECAME VERY AGITATED THAT THERE WAS SUCH A  
5 LARGE GROUP OF PEOPLE AND COMMENTED THAT IF SHE HAD HAD HER  
6 BADGE, SHE WOULD HAVE USED IT TO HELP THEM GET IN, BUT SHE  
7 HAD FORGOTTEN HER BADGE AND LEFT IT IN THE HOTEL ROOM.

8 ULTIMATELY, SOMEHOW, THEY GOT IN. AND AFTER THEY

9 GOT INTO THE COW PALACE, SUGARMAN BECAME UPSET BECAUSE HE  
10 COULDN'T KEEP TRACK OF WHERE SHE WAS. AND FROM THAT POINT  
11 ON, IT'S JUST A SERIES OF INCIDENTS THAT HAPPENED IN THE COW  
12 PALACE WHERE SHE MEETS OTHER MEN. HE BECOMES KIND OF  
13 JEALOUS OF IT.

14 SCOTT DAVIS IS TRYING TO SHEPHERD THEM BACK  
15 TOGETHER AND GET OUT OF THERE BECAUSE THE PLACE IS JUST TOO  
16 CROWDED AND SO FORTH. AND EVENTUALLY THEY ALL END UP IN  
17 THIS PARKING AREA OUTSIDE THE COW PALACE.

18 Q NOW, BEFORE -- BEFORE THEY ENDED UP IN THE PARKING  
19 LOT, DID MR. SUGARMAN TELL YOU ANYTHING THAT HE LEARNED  
20 OCCURRED WITH RESPECT TO MS. ABRAMSON INSIDE THE COW PALACE?

21 A YES.

22 Q WHAT WAS THAT?

23 A HE SAID THAT SHE MADE SOME COMMENT THAT SHE HAD  
24 MET A COUPLE OF I THINK HISPANIC MEN WHO HAD GROPED HER, AND  
25 HE USED THE WORD --

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1 THE COURT: I'M GOING TO -- WE'RE GETTING  
2 INTO DOUBLE HEARSAY, AND I'M GOING TO STOP THAT.  
3 THIS IS WHAT -- THIS IS WHAT SOMEONE APPARENTLY  
4 TOLD SUGARMAN -- EXCUSE ME. YES, ABRAMSON TOLD  
5 SUGARMAN, AND SUGARMAN TELLS KADISH. THAT'S WAY  
6 TOO FAR, AND I'M NOT COMFORTABLE WITH IT. IF YOU  
7 WANT TO MAKE A PROFFER OF IT AT THIS POINT, YOU  
8 CAN.

9 MR. MCGLASSON: YES, SIR.

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THE COURT: ALL RIGHT.

MR. MCGLASSON: THANKS. JUST FOR THE RECORD, YOUR HONOR, THIS ALSO RELATES DIRECTLY TO THE PRESS RELEASE THAT'S IN THE RECORD THAT MR. -- THAT WAS INTRODUCED THROUGH MR. HOWARD WHERE MS. CSEHY INDICATES THAT, AGAIN, THERE WAS -- SHE ATTENDED A PARTY AT WHICH THERE WAS SOME KIND OF VICTIMIZATION, AND SO -- AND, AGAIN, INDICATING, AT LEAST INFERRING THAT PERHAPS MR. SUGARMAN WAS THE PERPETRATOR.

THE COURT: ALL RIGHT. WELL, I'M GOING TO LET YOU MAKE THE PROFFER. I TELL YOU AT THIS POINT, YOU HAVE LAID ALL YOUR CARDS OUT ON THE TABLE BECAUSE IF THIS DOESN'T HAVE ANYTHING TO DO WITH THE NICHOLS CASE, THIS IS CHARACTER ASSASSINATION. THAT'S ALL THERE IS TO IT. SO

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YOU'RE ALL IN ON THIS ONE.

BUT I'VE ALLOWED IT, AND I'M GOING TO LET YOU PROFFER, AND I'M GOING TO BASICALLY LET YOU SAY WHAT YOU BELIEVE WHAT MR. KADISH WOULD SAY. SO IT ALL COMES OUT, BUT I HOPE AND PRAY AT THE VERY END Y'ALL CAN CONNECT THIS TO THE NICHOLS CASE BECAUSE IF NOT, YOU'VE RUINED ONE LADY'S REPUTATION.

MR. MCGLASSON: YOUR HONOR, JUST SO WE'RE CLEAR, I SHOULD PROBABLY RESPOND TO THAT. NO. 1

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THE COURT: THAT'S MY THINKING. I'M NOT

12 GOING TO -- YOU'RE NOT GOING TO BE ABLE TO CHANGE  
13 MY THINKING. I'M CORRECT IN IT. AND AT THIS  
14 POINT, I'M REALLY NOT INTERESTED IN ANY COMMENTS  
15 FROM ANYBODY, BUT I'M GOING TO ALLOW YOU TO DO --  
16 YOU'VE CONVINCED ME, MR. MCGLASSON, TO --  
17 BASICALLY TO PUT IT ALL OUT. SO I'M GOING TO ASK  
18 YOU TO GO AHEAD AND PUT IT ALL OUT. AND AS, YOU  
19 KNOW, I'VE DRAWN THE LINE AT DOUBLE HEARSAY. YOU  
20 KNOW, MAYBE I SHOULD HAVE DRAWN IT EARLIER, BUT AT  
21 DOUBLE HEARSAY, WE'RE JUST -- NOT IN A COURT OF  
22 LAW AM I GOING TO ALLOW THAT. SO YOU GO AHEAD AND  
23 PUT IT ALL OUT, AND I'LL KEEP QUIET.

24 MR. MCGLASSON: YOUR HONOR, I'D LIKE TO BE  
25 HEARD WITH RESPECT TO THE COURT'S COMMENTS.

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1 THE COURT: NO, NO, YOU'RE NOT GOING TO ARGUE  
2 WITH ME, MR. MCGLASSON. I DON'T KNOW IN YOUR  
3 CAREER IF FOLKS HAVE ALLOWED -- SITTING UP ON THE  
4 BENCH HAVE ALLOWED YOU TO ARGUE BECAUSE YOU SEEM  
5 TO LIKE TO ARGUE. LET ME TELL YOU THIS. THE LAST  
6 24 YEARS, I'VE WON EVERY SINGLE ARGUMENT. NOW, IF  
7 YOU WANT TO ARGUE WITH ME, IT'S NOT IN MR. BRIAN  
8 NICHOL' BEST INTERESTS. DON'T GET IN AN ARGUMENT  
9 WITH THE COURT. YOU WILL LOSE. DO YOU UNDERSTAND  
10 THAT?

11 MR. MCGLASSON: YOUR HONOR, NO, I DO NOT.

12 THE COURT: ALL RIGHT.

13 MR. MCGLASSON: I WAS SEEKING THE COURT'S  
14 GUIDANCE.

15 THE COURT: THEN MAYBE YOU'D BETTER SIT DOWN  
16 AND HAVE SOMEBODY THAT'S A LITTLE MORE  
17 PROFESSIONAL STAND UP THERE BECAUSE THEY'RE THE  
18 ONES THAT UNDERSTAND IT. IF YOU WANT TO GET IN A  
19 FIGHT WITH THE COURT, IF YOU WANT TO HURT  
20 MR. NICHOLS' DEFENSE, THEN I'M GOING TO ADVISE YOU  
21 AT THIS POINT NOT TO DO IT.

22 THE FACT THAT YOU DON'T LIKE MY RULING, I  
23 DON'T GIVE A DAMN, AND I WANT TO MAKE SURE THAT  
24 THAT'S CLEAR WITH YOU. WHETHER THE STATE OR  
25 DEFENSE LIKES ANY OF MY RULINGS, I JUST DON'T CARE

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1 WHEN I GO HOME TO MARIETTA EVERY NIGHT.

2 NOW, I'VE TOLD YOU WHAT I FEEL. I'VE TOLD  
3 YOU -- I'VE TOLD YOU ALL LONG. SO AT THIS POINT,  
4 MAKE YOUR PROFFER, OR SIT DOWN.

5 MR. MCGLASSON: MAY I BE HEARD, YOUR HONOR?

6 THE COURT: I'VE TOLD YOU. AND LET ME  
7 JUST -- LET ME SAY THIS. IF YOU GO OUTSIDE THAT  
8 LANE I PUT YOU IN, WE'LL DEAL WITH IT, AND WE'LL  
9 DEAL WITH IT RIGHT THIS VERY MINUTE.

10 MR. MCGLASSON: I DO NOT UNDERSTAND THE LANE  
11 THAT I'M IN, YOUR HONOR. I'M ASKING TO BE HEARD  
12 FOR CLARIFICATION. AND I'M ASKING TO BE HEARD TO  
13 RESPOND TO THE COURT'S COMMENTS. I'M ALSO ASKING  
14 TO BE HEARD WITH RESPECT TO MY CLIENT'S RIGHT TO

15 THE EFFECTIVE ASSISTANCE OF COUNSEL. GIVEN THE  
16 COURT'S COMMENTS ABOUT POTENTIAL CONSEQUENCES TO  
17 ME AND/OR ANY MEMBER OF THE DEFENSE TEAM, SHOULD  
18 WE CONTINUE TO PRESENT OUR CLIENT'S CASE ON THIS  
19 MOTION?

20 THE COURT: I HAVE MADE IT AS CLEAR AS I CAN  
21 MAKE IT, MR. MCGLASSON. YOU GO DOWN WHAT ROAD YOU  
22 WANT TO GO DOWN. AND IF YOU WANT TO SIT HERE AND  
23 ARGUE WITH THE COURT, I'LL DEAL WITH IT SUMMARILY.  
24 IF YOU WANT TO MAKE A PROFFER LIKE I'VE TOLD YOU  
25 TO MAKE IT, MAKE IT. DON'T ARGUE WITH ME ANYMORE.

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1 MR. MCGLASSON: MAY I HAVE THE COURT'S  
2 INDULGENCE, YOUR HONOR?

3 THE COURT: YES, SIR.

4 (WHEREUPON, THERE WAS AN OFF-THE-RECORD  
5 DISCUSSION.)

6 MR. MCGLASSON: YOUR HONOR, AT THIS TIME,  
7 I'LL PROFFER -- DOES THE COURT PREFER ME TO DO IT  
8 OR ASK THE QUESTION OF THE WITNESS?

9 THE COURT: NO. I'D RATHER THAT YOU DO IT  
10 BECAUSE I DON'T WANT DOUBLE HEARSAY FROM HIM.

11 MR. MCGLASSON: OKAY. THE PROFFER I'D MAKE,  
12 YOUR HONOR, AT THIS TIME IS THAT IF I ASKED THE  
13 WITNESS TO TESTIFY, THAT AT THE COW PALACE,  
14 MR. SUGARMAN RELATED THAT MS. ABRAMSON WAS  
15 SEPARATED FROM HIM AND OTHER MEMBERS OF HIS PARTY

16 AND REPORTED BACK SOME POINT IN TIME -- IN TIME  
17 LATER THAT SHE HAD BEEN SEXUALLY ASSAULTED BY TWO  
18 I THINK THE WITNESS HAD ALREADY SAID HISPANIC MEN;  
19 THAT THERE WAS SOME GROPING OR SOMETHING THAT HAD  
20 OCCURRED; THAT SHE WAS IN DISARRAY AND WAS --  
21 REPORTED BEING VICTIMIZED ABOUT A SEXUAL ASSAULT.

22 AND TO BE CLEAR, YOUR HONOR, WHAT  
23 MR. SUGARMAN TOLD THIS WITNESS IS NOT THAT HE HAD  
24 ANYTHING TO DO WITH IT OR ANYBODY ELSE IN HIS  
25 PARTY. BUT RATHER, IT WAS SOME STRANGERS THAT

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1 THEY DID NOT KNOW AT THE PARTY.

2 THAT'S THE PROFFER, YOUR HONOR.

3 THE COURT: ALL RIGHT. THANK YOU. IT'S  
4 ACCEPTED AS A PROFFER. ANY FURTHER QUESTIONS FOR  
5 PROFESSOR KADISH?

6 MR. MCGLASSON: YES, YOUR HONOR.

7 BY MR. MCGLASSON:

8 Q PROFESSOR KADISH, AFTER YOU -- YOU HAD SAID THEY  
9 WENT TO A PARKING LOT OUTSIDE THE COW PALACE. I THINK  
10 THAT'S WHERE WE WERE AT BEFORE I INTERRUPTED YOU?

11 A YES.

12 Q DO YOU RECALL THAT? DID MR. SUGARMAN TELL YOU  
13 WHAT HAPPENED IN THE PARKING LOT?

14 A YES.

15 Q AND WHAT DO YOU RECALL HIM SAYING?

16 THE WITNESS: YOUR HONOR?

17 THE COURT: YES, SIR.

18 THE WITNESS: THAT -- THAT QUESTION IS LIKELY  
19 TO REQUIRE ME TO ANSWER IN THE FORM OF SOME DOUBLE  
20 HEARSAY.

21 THE COURT: ALL RIGHT. IF IT'S DOUBLE  
22 HEARSAY, THEN I'M NOT GOING TO ALLOW THAT.  
23 ALTHOUGH WHEN MR. SUGARMAN COMES IN, I MAY FOLLOW  
24 THE SAME RULES. IT MAY COME THROUGH HIS MOUTH,  
25 BUT I'M NOT GOING TO LET DOUBLE HEARSAY. I'VE

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1 STOPPED AT DOUBLE HEARSAY, AND I MAY HAVE CREATED  
2 MY OWN EVIDENCE RULE.

3 SO AT THIS POINT, MR. MCGLASSON, IF YOU WISH  
4 TO, YOU CAN PROFFER WHAT YOU BELIEVE MR. SUGARMAN  
5 HAS SAID OR WHAT MR. KADISH HAS TOLD YOU  
6 MR. SUGARMAN SAID.

7 MR. MCGLASSON: WELL, YOUR HONOR, AT THIS  
8 TIME, I WOULD PROFFER THAT IF ALLOWED, THE WITNESS  
9 WOULD ANSWER THAT IN THIS PARKING LOT OUTSIDE THE  
10 THE COW PALACE, MS. ABRAMSON IS IN A CAR WITH SOME  
11 OTHER INDIVIDUALS WHO ARE STRANGERS. I BELIEVE  
12 THEY WERE IDENTIFIED AS AFRICAN AMERICAN MALES,  
13 AND THAT THEY -- HE AND OTHERS ENTER THE CAR WITH  
14 HER AND THESE INDIVIDUALS, AND THEY GO TO A  
15 PARTY -- AND, AGAIN, I DON'T -- WASN'T ATTEMPTING  
16 TO ELICIT ANY DOUBLE HEARSAY, SIMPLY WHAT HAPPENED  
17 IN THAT PARKING LOT.

18 THE COURT: ALL RIGHT. WELL, IT SOUNDS LIKE

19 PROFESSOR KADISH WOULD KNOW AS WELL OR BETTER THAN  
20 ANYBODY WHETHER IT WAS DOUBLE HEARSAY, AND HE  
21 LOOKED AT ME AND SAYS IT'S GOING TO BE. I'LL  
22 ALLOW YOU TO ASK HIM THE QUESTION. YOU DON'T  
23 THINK IT'S GOING TO BE, THOUGH?  
24 MR. MCGLASSON: I DIDN'T MEAN -- WASN'T  
25 MEANING TO. I MEAN THERE MAY BE SOME

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1 CONVERSATIONS THAT WE CAN SKIP OVER, BUT IT WAS  
2 SIMPLY A QUESTION OF WHAT HAPPENED IN THE PARKING  
3 LOT.

4 THE COURT: I'LL ALLOW YOU TO ASK THAT UNDER  
5 THE STRUCTURE WE'VE SET UP TO ALLOW HEARSAY, THAT  
6 IS, SUGARMAN TELLING KADISH SOMETHING.

7 BY MR. MCGLASSON:

8 Q SO AGAIN, PROFESSOR KADISH, DO YOU RECALL WHAT  
9 SUGARMAN SAID -- WHAT DAVE SUGARMAN SAID HAPPENED OUTSIDE IN  
10 THE PARKING LOT?

11 A YES.

12 Q WHAT WAS THAT?

13 A WHEN THEY -- WHEN HE GETS OUT TO THE PARKING LOT,  
14 MS. ABRAMSON IS THERE AND MR. DAVIS IS THERE. AND THERE IS  
15 AN SUV THERE WITH SOME FELLOWS IN IT WHO THEY -- WHO  
16 MS. ABRAMSON AND MR. DAVIS AND MR. SUGARMAN APPARENTLY DID  
17 NOT KNOW. THE LIMO THAT THEY HAD AT THE BEGINNING OF THEIR  
18 TRIP TO THE COW PALACE IS MISSING. THEY CAN'T FIND IT, AND  
19 IT'S GETTING LATE, AND THE AREA, IT'S JUST A PARKING LOT.  
20 SO THE GUYS IN THE SUV -- SEE, THAT'S THE HEARSAY, BUT LET

21 ME JUST TRY TO SAY IT WITHOUT THAT.

22 ANYWAY, THEY END UP -- HE AND MS. ABRAMSON END UP  
23 IN THE CAR, AND HE -- MR. SUGARMAN TELLS ME THAT IN THE CAR  
24 THERE IS SOME COKE BEING USED.

25 Q DID HE TELL YOU WHO USED IT?

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1 A NOT CLEARLY.

2 Q AND WHERE DID THEY GO AFTER THAT? DID THEY LEAVE  
3 THE PARKING LOT?

4 A YES, AND THEY DROVE TO A HOUSE, WHICH WAS, AS I  
5 CAN UNDERSTAND IT FROM MR. SUGARMAN, WHICH WAS CLOSER TO THE  
6 AIRPORT THAN WHERE THE COW PALACE WAS. AND THEY WENT INTO  
7 THAT HOUSE, AND THERE WAS A WILD PARTY IN PROGRESS, AND  
8 THERE WERE -- THERE WERE DRUGS IN THE HOUSE THAT WERE BEING  
9 VISIBLY USED BY PERSONS IN THE HOUSE. THEY STAYED THERE FOR  
10 A WHILE, AND THEN MS. ABRAMSON AND HE -- LET ME SEE IF THIS  
11 IS RIGHT. JUST ONE SECOND.

12 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)

13 THE WITNESS: YEAH, MS. ABRAMSON AND -- SHE,  
14 I BELIEVE, GO BACK IN THAT SAME CAR WITH THOSE  
15 SAME GUYS, AND THEY DRIVE -- THEY DRIVE TO THE --  
16 THEY DRIVE TO THE HOTEL, WHICH IS NEAR THE  
17 AIRPORT.

18 BY MR. MCGLASSON:

19 Q DO YOUR NOTES REFLECT WHETHER MR. SUGARMAN  
20 INDICATED THAT MS. ABRAMSON HAD INGESTED ANY ILLEGAL  
21 SUBSTANCES AT THIS PARTY YOU REFERRED TO?

nicholsmotions090308[1].txt  
22 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)  
23 THE WITNESS: I DON'T -- MY NOTES DO NOT  
24 SPECIFICALLY SHOW THAT SHE USED ANY DRUGS AT THE  
25 PARTY.

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1 BY MR. MCGLASSON:  
2 Q IF I COULD REFER YOU TO THE FIFTH PAGE BEGINNING  
3 WITH THE WORD "AT," I BELIEVE? CAN YOU TAKE A LOOK AT THAT?  
4 A I'M THERE.  
5 Q DOES THAT REFRESH YOUR RECOLLECTION?  
6 A NO.  
7 Q CAN YOU READ THAT LINE INTO THE RECORD, PLEASE, IF  
8 YOU CAN DO SO?  
9 A "AT PARTY, BIG BAG OF COKE GAYLE IS DOING. NOW  
10 GAYLE IS HAPPY."  
11 Q DOES THAT REFRESH YOUR RECOLLECTION?  
12 A NO.  
13 Q OKAY. DID MR. SUGARMAN TELL YOU ANYTHING ELSE  
14 ABOUT HIS RELATIONSHIP IN GENERAL WITH GAYLE ABRAMSON THAT  
15 YOU'VE NOT RELATED HERE TODAY?  
16 A GENERALLY, NO, NOT THAT I CAN THINK OF.  
17 Q DID HE SAY WHEN IT ENDED, FOR EXAMPLE?  
18 A OH, THE RELATIONSHIP?  
19 Q YES.  
20 A WELL, AFTER THE COW PALACE EPISODE, HE WAS GOING  
21 TO FLY BACK -- HE WAS GOING TO FLY TO ATLANTA FOR ANOTHER  
22 VISIT WITH HER SEVERAL WEEKS LATER. AND BY THIS TIME, THEIR  
23 E-MAIL AND TELEPHONE CONVERSATIONS WERE TAPERING OFF

24 ACCORDING TO SUGARMAN, AND HE HAD ALREADY SENT HER TICKET  
25 INFORMATION, AND THEY ARRANGED TO HAVE HER PICK HIM UP, AND

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1 THEN SHE TELLS HIM NOT TO COME.

2 MR. MCGLASSON: YOUR HONOR, WE'D MOVE FOR  
3 ADMISSION OF DEFENSE -- DEFENDANT'S EXHIBIT NO. 5  
4 AT THIS TIME.

5 MS. ROSS: NO OBJECTION, YOUR HONOR.

6 THE COURT: ALL RIGHT. IT COMES IN WITHOUT  
7 ANY OBJECTION?

8 MS. ROSS: NO OBJECTION, YOUR HONOR.

9 THE COURT: ALL RIGHT.

10 (WHEREUPON, DEFENDANT'S EXHIBIT 5 WAS ADMITTED  
11 INTO EVIDENCE.)

12 BY MR. MCGLASSON:

13 Q ALL RIGHT. MOVING FORWARD, PROFESSOR KADISH, DID  
14 THERE COME A TIME WHEN YOU WERE ABLE TO SPEAK WITH GAYLE  
15 ABRAMSON ABOUT THESE ISSUES?

16 A YES.

17 Q DO YOU RECALL ROUGHLY WHEN THAT WAS?

18 A I THINK IT WAS FEBRUARY 2004, MAYBE THE 11TH,  
19 12TH, SOMEWHERE IN THE MIDDLE OF THE MONTH.

20 THE COURT: HOLD ON FOR ME JUST A SECOND.

21 HOW LONG DO YOU NEED TO CROSS?

22 MS. ROSS: NOT VERY LONG, YOUR HONOR.

23 THE COURT: ALL RIGHT. SO JUST -- LET'S  
24 JUST --

1 YOUR HONOR.

2 THE COURT: BECAUSE WE KNOW -- BECAUSE WE  
3 KNOW I'VE GOT TO GET OFF THE BENCH AT 4:30.

4 MR. MCGLASSON: I DO.

5 THE COURT: SO ALL RIGHT. SO WE'VE GOT --  
6 WE'RE APPARENTLY OKAY THERE. SO ALL RIGHT.

7 MR. MCGLASSON: MAY I APPROACH, YOUR HONOR?

8 THE COURT: YES.

9 BY MR. MCGLASSON:

10 Q LET THE RECORD REFLECT I'M HANDING THE WITNESS  
11 WHAT'S BEEN MARKED AS DEFENDANT'S EXHIBIT 6, AND ASK YOU TO  
12 TAKE A LOOK AT THAT, PROFESSOR KADISH.

13 (WHEREUPON, DEFENDANT'S EXHIBIT 6 WAS MARKED FOR  
14 PURPOSES OF IDENTIFICATION.)

15 THE WITNESS: YES.

16 BY MR. MCGLASSON:

17 Q DO YOU RECOGNIZE THAT?

18 A YES.

19 Q WHAT IS THAT?

20 A THESE ARE BRUCE MORRIS' NOTES OF AN INTERVIEW OF  
21 GAYLE ABRAMSON, WHICH TOOK PLACE ON FEBRUARY 21ST OF '06.

22 Q IS THAT --

23 A I'M SORRY. I SAID '04 INSTEAD OF '06.

24 Q DOES THAT REFRESH YOUR RECOLLECTION OF WHEN THIS  
25 INTERVIEW OCCURRED?

□

1           A     YES.  UH-HUH.  
2           Q     WHERE DO YOU SUPPOSE -- WERE YOU WITH MR. MORRIS  
3     DURING THE INTERVIEW?  
4           A     THIS INTERVIEW, YES.  
5           Q     OKAY.  AND SO WHERE DID IT OCCUR?  
6           A     HIS OFFICE IN THE -- LET'S SEE.  I GUESS HE'S ON  
7     THE 21ST FLOOR OF -- I JUST WENT BLANK ON THE BUILDING FOR  
8     SOME REASON.  WAIT A MINUTE.  
9           Q     WE'RE GOING TO HAVE MR. MORRIS TESTIFY.  
10          A     OKAY.  
11          Q     SO WE CAN HAVE HIM IDENTIFY.  
12                 DID MS. ABRAMSON COME ALONE TO THIS INTERVIEW?  
13          A     YES.  
14          Q     DO YOU KNOW HOW IT WAS ARRANGED, THE INTERVIEW?  
15          A     YES.  
16          Q     HOW WAS THAT?  
17          A     I THINK IT WAS ARRANGED THROUGH MR. CSEHY.  
18          Q     THAT WOULD BE RAND CSEHY?  
19          A     YES.  
20          Q     BUT HE DID NOT COME TO THE INTERVIEW?  
21          A     I DON'T REMEMBER HIM BEING THERE.  
22          Q     AND RATHER THAN GOING OVER THE NOTES HERE SINCE  
23     WE'RE GOING TO HAVE MR. MORRIS TOMORROW, I'D JUST LIKE FOR  
24     YOU TO EXPLAIN TO THE COURT IN GENERAL TERMS WHAT THE  
25     INTERVIEW IS ABOUT, AND I WANT TO ASK YOU SOME QUESTIONS

1 ABOUT WHAT WAS SAID DURING THIS INTERVIEW.

2 THE COURT: HE WAS THERE; RIGHT? I KNOW IT'S

3 MORRIS' NOTES NOTES, BUT KADISH WAS THERE; RIGHT?

4 MR. MCGLASSON: LET ME JUST MAKE THAT CLEAR.

5 BY MR. MCGLASSON:

6 Q PROFESSOR KADISH, WERE YOU AT THIS INTERVIEW

7 DURING THIS RECITATION?

8 A YES, THE ENTIRE INTERVIEW.

9 Q OKAY. THANK YOU.

10 AND, IN FACT, JUST SO WE'RE CLEAR, IS IT YOUR

11 PRACTICE WITH -- WHEN YOU'RE IN CASES -- YOU'VE DONE OTHER

12 CASES WITH BRUCE MORRIS?

13 A YES.

14 Q WHEN YOU ALL ARE DOING INTERVIEWS TOGETHER, WHO IS

15 THE NOTE TAKER?

16 A HE IS.

17 Q IS IT YOUR PRACTICE TO RELY ON NOTES THAT HE'S

18 TAKEN TO HELP YOU REFRESH YOUR RECOLLECTION ABOUT THOSE

19 INTERVIEWS?

20 A YES.

21 Q THANK YOU. ALL RIGHT.

22 SO GOING TO THE INTERVIEW THEN, WHAT WAS THE

23 PURPOSE OF THE INTERVIEW? WHAT WERE YOU WERE ASKING -- WHY

24 WERE YOU ASKING TO SEE GAYLE ABRAMSON?

25 A AT THIS POINT IN PREPARING THE DEFENSE FOR SCOTT

1 DAVIS, WE HAD INFORMATION THAT THERE HAD BEEN THIS  
2 RELATIONSHIP BETWEEN HER AND MR. SUGARMAN THAT I JUST  
3 DESCRIBED; THAT HE HAD MADE CERTAIN ACCUSATIONS ABOUT HER  
4 CONDUCT. WE WERE ATTEMPTING -- AND WE HAD RECEIVED FROM THE  
5 STATE THE MATERIALS RELATING TO THE WIRE TAP, AND THAT HAD  
6 FURTHER, AS I SAID EARLIER, RAISED OUR CURIOSITY ABOUT THE  
7 SITUATION.

8 AND WE STILL HAD NOT RESOLVED IN OUR OWN MINDS  
9 JUST WHAT POSITION MS. ABRAMSON MIGHT HAVE HAD AS BEING AN  
10 ASSISTANT DISTRICT ATTORNEY IN PAUL HOWARD'S OFFICE AND HER  
11 RELATIONSHIP TO THIS PARTICULAR CASE. AND SO WE WANTED TO  
12 PURSUE THAT, AND WE WANTED TO INTERVIEW HER PRIVATELY.

13 AND I MIGHT SAY, YOUR HONOR, IN ALL FAIRNESS TO  
14 MS. ABRAMSON, THAT SHE WAS TOLD BY MR. MORRIS WHEN THE  
15 INTERVIEW BEGAN THAT THE INTERVIEW WAS CONFIDENTIAL. SHE  
16 WAS TOLD THAT. MR. SUGARMAN WAS NOT TOLD THAT. BUT  
17 MS. ABRAMSON WAS TOLD THAT, AND SO WE INTENDED TO BE  
18 CONFIDENTIAL BECAUSE WE REALLY HAD NO -- IT DID NOT COME OUT  
19 IN THE DAVIS CASE. I DON'T KNOW IF YOU'RE AWARE OF THAT.  
20 NONE OF THIS INFORMATION EVER CAME OUT IN THE SCOTT DAVIS  
21 CASE.

22 THE COURT: WELL, LET ME ASK YOU, AND WE'LL  
23 RETURN BACK TO HIM. DID ANY OF THIS INFO COME OUT  
24 EITHER IN MOTIONS OR IN THE -- THE CASE ITSELF?

25 THE WITNESS: NO.

1 THE COURT: AND -- ALL RIGHT. AND WAS IT  
2 DECIDED BY YOU -- I'M JUMPING AHEAD BECAUSE THESE  
3 WERE SOME QUESTIONS THAT I HAVE, BUT AS THE JUDGE,  
4 I'VE GOT THE PREROGATIVE TO DO IT. APPARENTLY,  
5 YOU AND MR. MORRIS DECIDED FOR WHATEVER REASON  
6 THAT YOU WERE NOT GOING TO PURSUE -- THAT YOU WERE  
7 INVESTIGATING IT, AND YOU TALKED TO MR. SUGARMAN.  
8 YOU TALKED TO MS. ABRAMSON AND OTHERS, BUT YOU  
9 DIDN'T PURSUE IT?

10 THE WITNESS: CORRECT.

11 THE COURT: ALL RIGHT. AND I'M NOT TRYING  
12 MAKE A COMMENT ON WHETHER SOMEBODY SHOULD HAVE  
13 PURSUED IT OR SHOULD NOT HAVE PURSUED. I  
14 OBVIOUSLY HAVE ALLOWED THE TESTIMONY HERE TODAY.  
15 I'M ALLOWING THE DEFENSE TO PURSUE IT. ALL RIGHT.  
16 I'LL GIVE YOU BACK YOUR WITNESS.

17 MR. MCGLASSON: THANK YOU, JUDGE.

18 BY MR. MCGLASSON:

19 Q JUST TO SPIN IT FORWARD FAIRLY QUICKLY, IT'S MY  
20 UNDERSTANDING YOU SAID EARLIER THAT ONE OF YOUR CONCERNS  
21 WITH RESPECT TO THE WIRE TAP WAS WHETHER MS. ABRAMSON MIGHT  
22 HAVE HAD SOME CONFIDENTIAL ROLE IN THE INVESTIGATION OF THE  
23 DAVIS CASE, AND THAT WAS THAT HER INVOLVEMENT WITH  
24 MR. SUGARMAN WAS NOT HAPPENSTANCE. IT MIGHT HAVE BEEN  
25 PLANNED; IS THAT CORRECT?

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1 A YES.

2 Q AND SO IS THAT ONE OF THE THINGS YOU WERE SEEKING  
Page 203

3 INFORMATION?

4 A WE WERE TRYING TO PIN DOWN EXACTLY WHAT HER  
5 CAPACITY WAS WHEN SHE WAS OUT IN PALO ALTO, WHEN SHE WAS  
6 COMMUNICATING WITH SUGARMAN. AT TIMES WHEN SUGARMAN HAD A  
7 DIRECT RELATIONSHIP WITH MR. DAVIS, AND WHEN SHE WAS -- AND  
8 WHEN MR. SUGARMAN WAS HERE IN ATLANTA AND SEEING HER,  
9 MS. ABRAMSON, THAT AT THAT TIME SCOTT DAVIS WAS ACTUALLY  
10 PRESENT FOR SOME OF THAT -- SOME OF THAT 'SOCIALIZING. SO WE  
11 WERE JUST SUSPICIOUS AS TO WHAT SHE WAS DOING THERE. WE  
12 JUST COULDN'T IMAGINE WHY SHE WAS THERE.

13 Q IS IT FAIR TO SAY THAT WAS YOUR PRIMARY FOCUS IN  
14 TERMS OF THIS ENTIRE INVESTIGATION WAS WHETHER OR NOT THERE  
15 MAY HAVE BEEN SOME UNDERCOVER STATUS --

16 A RIGHT.

17 Q -- WITH RESPECT TO MS. ABRAMSON --

18 A RIGHT.

19 Q -- IN THE DAVIS CASE?

20 A YES.

21 Q ALL RIGHT. SO DID YOU DISCUSS WITH MS. ABRAMSON  
22 THE ALLEGATIONS THAT WERE ON THE WIRE TAP, AND THE  
23 STATEMENTS THAT HAD BEEN MADE TO YOU BY DAVE SUGARMAN? I  
24 THINK WE'VE INDICATED ALMOST A YEAR EARLIER IN YOUR PHONE  
25 CONVERSATIONS WITH HIM?

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□

1 A YES.

2 Q AND CAN YOU TELL THE COURT WHAT DID MS. ABRAMSON  
3 SAY WITH RESPECT TO THOSE ALLEGATIONS? LET'S JUST START

4 WITH THE RELATIONSHIP WITH MR. SUGARMAN.

5 DID SHE ACKNOWLEDGE SHE'D HAD A RELATIONSHIP WITH  
6 HIM?

7 A OKAY. BEFORE I ANSWER YOUR QUESTION, I TOLD THE  
8 JUDGE THAT, YOU KNOW, WE TOLD HER THIS WOULD BE  
9 CONFIDENTIAL. AND IT IS STILL MY INTENTION THAT THIS  
10 CONVERSATION WITH HER AT THIS TIME IN BRUCE MORRIS' OFFICE  
11 ON FEBRUARY 21ST OF '06 WAS, IN FACT, CONFIDENTIAL. SO  
12 UNLESS YOU ORDER ME TO ANSWER THE QUESTIONS --

13 THE COURT: OKAY. COMMENTS?

14 MR. MCGLASSON: YOUR HONOR, AGAIN, WE'RE --  
15 BECAUSE WE'RE OUT OF ORDER, WE ALSO HAVE A RELEASE  
16 FROM CONFIDENTIALITY FROM MS. ABRAMSON THAT WAS  
17 ISSUED TO BRUCE MORRIS' OFFICE. WE WERE GOING TO  
18 PRESENT THAT THROUGH MS. ABRAMSON AND THROUGH  
19 MR. MORRIS. I CAN CERTAINLY --

20 THE COURT: YOU DON'T -- I UNDERSTAND THAT  
21 HE'S CONCERNED WITH IT, BUT BECAUSE OF SOME  
22 SUBSEQUENT DOCUMENT, YOU DON'T THINK IT'S AN ISSUE  
23 ANYMORE.

24 MR. MCGLASSON: I DO NOT, YOUR HONOR. WE  
25 HAVE A DOCUMENT WHICH SHE WAIVED THE VERY

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1 CONFIDENTIALITY AGREEMENT I BELIEVE PROFESSOR  
2 MORRIS -- KADISH IS REFERRING TO.

3 THE COURT: ANYTHING YOU WANT TO SAY?

4 MS. ROSS: IF I CAN SEE THAT? YOUR HONOR, IF  
5 I COULD JUST HAVE ONE MOMENT.

6 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)  
7 MS. ROSS: YOUR HONOR, WHAT COUNSEL HAS  
8 CHARACTERIZED IS, AND WHAT HE'S SHOWN ME FITS THE  
9 DESCRIPTION OF WHAT HE'S JUST DESCRIBED TO THE  
10 COURT. SO IF COUNSEL WILL STATE IN HIS PLACE THAT  
11 THIS IS MS. ABRAMSON CSEHY'S SIGNATURE ON THIS  
12 DOCUMENT, THEN I'LL ACKNOWLEDGE THAT SHE HAS  
13 WAIVED THAT CONFIDENTIALITY.  
14 MR. MCGLASSON: YOUR HONOR, I PERSONALLY  
15 OBTAINED THIS FROM GAYLE ABRAMSON ON MARCH 14TH,  
16 2007, IN THE FULTON COUNTY COURTHOUSE.  
17 THE COURT: I'LL ORDER YOU TO TESTIFY.  
18 THE WITNESS: OKAY. THANK YOU, YOUR HONOR.  
19 I THINK THE INTERVIEW, TO MY KNOWLEDGE,  
20 LASTED HALF AN HOUR, GIVE OR TAKE. ONLY THE THREE  
21 OF US WERE PRESENT: MORRIS, KADISH, AND ABRAMSON.  
22 DURING THE COURSE OF THAT INTERVIEW, SHE WAS ASKED  
23 AND REALLY PRETTY MUCH VOLUNTEERED THAT SHE HAD  
24 INGESTED COCAINE WITH SUGARMAN ON A COUPLE OF  
25 OCCASIONS IN ATLANTA. I DON'T RECALL THAT WE

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1 SPECIFICALLY ATTEMPTED TO PIN HER DOWN AS TO THE  
2 EXACT DATE, DAY, OR TIME, BECAUSE SHE WAS CRYING  
3 QUITE A BIT. SHE WAS VERY UPSET. AND WE WERE --  
4 YOU KNOW, WE WERE -- I DON'T KNOW WHAT THE RIGHT  
5 WORD IS. I MEAN WE WERE VERY CONCERNED ABOUT THE  
6 WHOLE SITUATION. BOTH MR. MORRIS AND I KNEW HER

7 PROFESSIONALLY, AND WE JUST FELT THERE WAS NO NEED  
8 TO PRESS HER ANY FURTHER BECAUSE SHE HAD STATED  
9 THAT TO US.

10 SHE -- WE DID NOT SPECIFICALLY QUESTION HER  
11 AS TO HOW SHE DID IT, WHETHER YOU KNOW, WHETHER  
12 SHE USED A STRAW OR WHETHER THEY DID LINES. WE  
13 DID NOT ASK ANY QUESTIONS LIKE THAT, BUT SHE DID  
14 STATE TO US THAT SHE DID DO COCAINE WITH SUGARMAN  
15 ON -- DURING THE WEEKEND SHE WAS HERE -- THAT HE  
16 WAS HERE IN ATLANTA.

17 ALSO, I GUESS, IN MY MIND ANYWAY, I HOPE I'M  
18 REMEMBERING THIS CORRECTLY. UNDERPINNING THIS  
19 WHOLE THING WAS THE FACT THAT WE ALSO KNEW BY THIS  
20 TIME THAT THE REASON SHE WAS OUT IN CALIFORNIA WAS  
21 BECAUSE OF HER RELATIONSHIP WITH RAND CSEHY, NOT  
22 BECAUSE SHE WAS IN AN UNDERCOVER CAPACITY. SO WE  
23 WERE CONCLUDING BY THAT POINT THAT SHE HAD NOT  
24 SEEN SUGARMAN IN ANY OTHER CAPACITY BUT A SOCIAL  
25 CAPACITY, AND THAT IT WAS A COINCIDENCE THAT SHE

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1 WAS THERE WITH SUGARMAN.

2 BY MR. MCGLASSON:

3 Q DO YOU RECALL WHETHER YOU ASKED HER ABOUT HER  
4 PERSONAL RELATIONSHIP WITH MR. SUGARMAN?

5 A YES. I THINK SHE READILY TOLD US THAT SHE HAD  
6 BEEN WITH HIM, YOU KNOW, IN ATLANTA AND IN CALIFORNIA.

7 Q THAT WOULD BE INTIMATELY?

8 A I'M SORRY?

9 Q WOULD THAT BE THEY HAD BEEN TOGETHER INTIMATELY?  
10 A OH, I DON'T THINK WE ASKED HER THAT.  
11 Q IF YOU'LL LOOK AT THE THIRD PAGE OF THIS DOCUMENT  
12 ABOUT HALFWAY DOWN, I WANT TO ASK YOU SOME QUESTIONS.  
13 A IS THAT THE AREA WHERE THE BRACKETS ARE?  
14 Q CORRECT.  
15 A OKAY.  
16 Q DO YOU RECALL TODAY WHETHER OR NOT YOU TALKED WITH  
17 MS. ABRAMSON ABOUT THE INCIDENTS INVOLVING THE WIRE TAP  
18 WHILE SHE WAS IN SAN FRANCISCO LATER ON IN APRIL OF '05?  
19 A YES, I THINK WE DID. I'M NOT POSITIVE ABOUT IT,  
20 AND I'M NOT SURE OF THOSE -- THE AREA THAT YOU'RE TALKING  
21 ABOUT ON PAGE 3 REALLY AMPLIFIES YOUR QUESTION IN ANY WAY,  
22 THAT IS, AS FAR AS REFRESHING MY RECOLLECTION. BUT I THINK  
23 SHE TOLD US AND CONFIRMED THAT SHE WAS OUT THERE TO VISIT  
24 WITH CSEHY, AND THAT SHE WAS EVEN MORE UPSET BY THE FACT  
25 THAT SHE HAD PUT HERSELF IN THE POSITION OF COMPROMISING

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1 CSEHY. AND SO THAT PAUL HOWARD CALLED THE WHOLE WIRE TAP  
2 OFF AT THAT POINT.  
3 Q DID SHE SAY HOW SHE LEARNED ABOUT WHAT HAPPENED?  
4 THAT IS TO SAY, THAT WHAT WAS GOING ON WITH RESPECT TO THE  
5 CONTENT OF THOSE WIRE TAPS?  
6 A I'M NOT SURE I'M FOLLOWING YOUR QUESTION.  
7 Q AND SHE SAID SHE WENT OUT TO CALIFORNIA WITH  
8 MR. CSEHY; IS THAT RIGHT?  
9 A YES.

10 Q WHEN HE WAS --

11 A I THINK SHE DID.

12 Q OKAY. DID SHE EXPLAIN TO YOU WHEN SHE FIRST  
13 LEARNED THE CIRCUMSTANCES -- WHEN SHE FIRST LEARNED THAT  
14 ALLEGATIONS WERE BEING MADE IN THE WIRE TAPS IN THE DAVIS  
15 CASE ABOUT HER CONDUCT?

16 A I DON'T -- I DON'T HAVE ANY SPECIFIC RECOLLECTION  
17 ABOUT IT, AND I DON'T HAVE ANY NOTES ABOUT IT OF MY OWN, AND  
18 I DON'T REALLY SEE THAT IN MORRIS' NOTES UNLESS YOU CAN  
19 REFRESH MY RECOLLECTION MORE SPECIFICALLY.

20 Q WELL, RATHER THAN DOING THAT, I THINK WHAT WE'LL  
21 DO IS JUST -- WE'LL ADDRESS THESE MATTERS WITH MR. MORRIS.

22 I WANT TO REFER YOU TO A LINE ABOUT HALFWAY DOWN  
23 ON THE THIRD PAGE THERE THAT HAS TWO LETTERS, "PH." DO YOU  
24 SEE THAT?

25 A YEAH.

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1 Q DOES THAT INDICATE TO YOU, DO YOU RECALL, ANYTHING  
2 THAT WAS DISCUSSED ABOUT WHAT MS. ABRAMSON DID WITH RESPECT  
3 TO HER OFFICE UPON HER RETURN FROM CALIFORNIA?

4 A YES. THIS REFRESHES MY RECOLLECTION THAT THERE  
5 WAS DISCUSSION BETWEEN HER, ABRAMSON, MORRIS, AND ME ABOUT A  
6 MEETING THAT SHE HAD WITH PAUL HOWARD ABOUT THIS SITUATION,  
7 BOTH THE COMPROMISING OF THE WIRE TAP, AND HER RELATIONSHIP  
8 WITH SUGARMAN.

9 Q AND I'M SORRY?

10 A AND I CAN ONLY BE REFRESHED IN MY RECOLLECTION AS  
11 TO THE WORDS IN IT, WHICH SAY THAT SHE TOLD US. THAT IS,

12 ABRAMSON TOLD US THAT PAUL HOWARD TOLD HER AFTER THIS  
13 CONVERSATION THAT -- OR NOT AFTER, DURING THE CONVERSATION  
14 THAT HE MIGHT HAVE TO HAVE THE UNITED STATES ATTORNEY  
15 INTERVIEW HER ABOUT THIS SITUATION IN CALIFORNIA, AND SHE  
16 SAID THAT SHE WAS UPSET. SHE WAS CRYING, AND THAT PAUL  
17 HOWARD WAS NOT SYMPATHETIC.

18 Q OKAY.

19 A DIDN'T ACT SYMPATHETICALLY TOWARD HER.

20 Q DO YOU RECALL WHAT SHE SAID ABOUT WHY MR. HOWARD  
21 TOLD HER THAT YOU NEED TO BE REFERRED TO THE U.S. ATTORNEY'S  
22 OFFICE?

23 A NO.

24 Q WHAT SHE WAS REFERRING TO?

25 A WELL, THE INFERENCE WOULD BE -- I CAN ONLY GIVE

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1 YOU WHAT THE INFERENCE IS.

2 YOU WANT ME TO DO THAT?

3 THE COURT: FINE.

4 THE WITNESS: OKAY. THE INFERENCE WOULD BE

5 THAT SHE HAD MADE STATEMENTS TO HIM THAT WERE

6 INCRIMINATING ABOUT HER CONDUCT WITH SUGARMAN.

7 BY MR. MCGLASSON:

8 Q DO THESE NOTES CONFIRM THAT INFERENCE?

9 A THEY DO. THEY SAY -- THE NOTES IN BRACKETS MADE  
10 BY MR. MORRIS REFER TO THE USE OF COCAINE WITH SUGARMAN ON  
11 FRIDAY AND SATURDAY NIGHT AND AT THE COW PALACE.

12 Q IN SAN FRANCISCO?

13 A YES. BUT MR. MORRIS WOULD BE BETTER ABLE TO  
14 ANSWER THAT THAN I AM.

15 MR. MCGLASSON: CAN I HAVE THE COURT'S  
16 INDULGENCE, YOUR HONOR?

17 THE COURT: YES.

18 (WHEREUPON, THERE WAS AN OFF-THE-RECORD  
19 DISCUSSION.)

20 MR. MCGLASSON: ALL RIGHT. ONE FINAL AREA,  
21 YOUR HONOR, AND THEN WE'LL BE FINISHED WITH  
22 PROFESSOR KADISH.

23 BY MR. MCGLASSON:

24 Q DID YOU ALSO INTERVIEW A GENTLEMAN BY THE NAME OF  
25 WARD KELLY?

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1 A YES.

2 Q WAS THIS ALSO ABOUT THESE ALLEGATIONS INVOLVING  
3 DAVE SUGARMAN, HIS ASSOCIATES, AND GAYLE ABRAMSON?

4 A YES.

5 Q WHO WAS WARD KELLY?

6 A WARD KELLY IS A FRIEND OF SCOTT DAVIS. I THINK  
7 WHEN I INTERVIEWED HIM, IT WAS A PERSONAL INTERVIEW. IT WAS  
8 CONDUCTED IN CHICAGO. HE WORKED FOR SOME KIND OF A  
9 BROKERAGE COMPANY, AND I THINK HE HAD KNOWN SCOTT DAVIS FROM  
10 SCHOOL. CAN'T REMEMBER EXACTLY, BUT THEY HAD BEEN FRIENDS  
11 FOR A WHILE.

12 THE COURT: IS HE -- IS HE GOING TO BE  
13 CALLED?

14 MR. MCGLASSON: NO, HE'S NOT, YOUR HONOR.

15 THE COURT: NOW, YOU SEE, I WANT YOU TO TELL  
16 ME WHERE YOU'RE GOING BECAUSE I KNOW -- I KNOW  
17 MS. ABRAMSON'S GOING TO BE CALLED. I KNOW  
18 MR. SUGARMAN IS GOING TO BE CALLED BECAUSE I'M  
19 LOOKING AT YOUR DOCUMENT HERE, AND I KNOW  
20 MR. MORRIS IS GOING TO BE CALLED. SO I HAVE  
21 ALLOWED -- EVERYONE WILL AGREE, I'VE ALLOWED A LOT  
22 HERE BASICALLY THINKING THEY WOULD BE CALLED, AND  
23 ALSO AGAIN, TRYING TO BEND OVER BACKWARDS, WHICH  
24 I'M GLAD I'M DOING FOR PROFESSOR KADISH.  
25 BUT, NOW YOU'RE TALKING ABOUT SOMEBODY THAT'S

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1 NOT ON YOUR WITNESS LIST. SO TELL ME, ARE YOU  
2 GOING TO BE ASKING PROFESSOR KADISH WHAT THIS  
3 GENTLEMAN TOLD KADISH?  
4 MR. MCGLASSON: I'M GOING TO ASK -- I WAS  
5 GOING TO TRY TO CONFLATE IT AND NOT GET INTO  
6 HEARSAY AND SIMPLY ASK WHETHER HE LEARNED ANYTHING  
7 FROM WARD KELLY TO CONFIRM WHAT HE'D ALREADY HEARD  
8 FROM THE OTHER WITNESSES WITHOUT GETTING INTO THE  
9 STATEMENTS AND SO FORTH.  
10 THE COURT: HERE'S WHAT I'M GOING TO DO. I'M  
11 GOING TO LET YOU GO FORWARD, BUT I JUST -- I  
12 WANTED -- THE REASON I INTERJECTED MYSELF THERE IS  
13 I HAVE CERTAIN STANDARDS WHEN I'M LETTING IN  
14 HEARSAY. DO YOU FOLLOW ME?  
15 MR. MCGLASSON: YES, SIR.

nicholsmotions090308[1].txt  
16 THE COURT: I'M MAKING THEM UP AS WE GO  
17 BECAUSE I'M TRYING TO BEND OVER BACKWARDS BECAUSE  
18 I HAVE -- THIS IS THE COURSE THAT I'VE CHOSEN, BUT  
19 I DON'T WANT TO GET INTO HEARSAY FROM SOMEBODY  
20 THAT'S NOT GOING TO BE ABLE TO BE CROSS-EXAMINED  
21 BY MS. ROSS.  
22 MR. MCGLASSON: I UNDERSTAND, YOUR HONOR.  
23 THE COURT: ALL RIGHT.  
24 MR. MCGLASSON: IF IT GOES -- IF IT CAN'T BE  
25 DONE, THEN I'LL END IT RIGHT THERE. I JUST WANTED

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1 TO SEE IF WE CAN DO IT WITHOUT HEARSAY.  
2 THE COURT: OKAY.  
3 BY MR. MCGLASSON:  
4 Q PROFESSOR KADISH, YOU SAID THAT YOU SPOKE WITH  
5 WARD KELLY. DO YOU REMEMBER WHERE THAT WAS, OR WHERE YOU  
6 WERE?  
7 A YES, IT WAS AT HYATT HOUSE IN CHICAGO.  
8 Q YOU MET WITH HIM FACE-TO-FACE?  
9 A YES.  
10 Q DID YOU LEARN ANYTHING -- LET ME ASK YOU THIS.  
11 YOU SAID WARD KELLY WAS -- WHAT WAS HIS CONNECTION  
12 TO THIS SITUATION WITH THESE PEOPLE?  
13 A I JUST -- I THOUGHT I TOLD YOU. HE WAS --  
14 Q I'M SORRY. I WAS DISTRACTED.  
15 A -- HE WAS A SCHOOL FRIEND OF SCOTT DAVIS AND HAD  
16 KNOWN HIM FOR A NUMBER OF YEARS. THEY HAD STAYED IN TOUCH.  
17 AND HE WAS PRESENT FOR THAT WEEKEND IN ATLANTA WITH DAVIS,

18 AND SUGARMAN AND KELLY, WHOSE NAME I MENTIONED EARLIER AT,  
19 YOU KNOW, THAT FOOTBALL WEEKEND.

20 Q ALL RIGHT. AND WITHOUT GOING INTO ANYTHING THAT  
21 WAS SPECIFICALLY SAID, DID YOU LEARN FROM YOUR -- THE  
22 CONVERSATION WITH MR. KELLY ANY INFORMATION THAT CONFIRMED  
23 WHAT YOU'D ALREADY BEEN HEARING FROM EITHER MR. SUGARMAN, OR  
24 I THINK YOU LATER HEARD FROM GAYLE ABRAMSON REGARDING THE  
25 ALLEGATIONS THAT HAD BEEN MADE ON THE WIRE TAPS REGARDING

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1 HER MISCONDUCT?

2 A I DON'T KNOW WHAT OBLIGATIONS OF THE WITNESS ARE,  
3 BUT THERE IS NO WAY THAT I CAN ANSWER THAT QUESTION WITHOUT  
4 REPORTING -- WITHOUT DERIVING IT FROM HEARSAY.

5 THE COURT: WELL, I THINK SOMETIMES YOU CAN  
6 MAKE CONCLUSIONS. YOU COULD SAY I THINK YOU COULD  
7 ANSWER THAT EITHER YES OR NO, AND YES, THAT WOULD  
8 COME FROM HEARSAY, BUT I THINK I'M OKAY WITH THAT.  
9 I JUST DON'T WANT YOU TO REPEAT HIS WORDS.

10 THE WITNESS: I CONFIRMED THAT -- SO YOU'RE  
11 DIRECTING ME TO ANSWER THE QUESTION AS POSED?

12 THE COURT: RIGHT.

13 THE WITNESS: I JUST DON'T WANT TO RUN AFOUL  
14 OF ANYTHING YOU'VE SAID. I DON'T WANT YOU TO GET  
15 MAD AT ME.

16 THE COURT: IS IT GOING TO MAKE ANY  
17 DIFFERENCE IF I GET MAD AT YOU?

18 THE WITNESS: YES.

nicholsmotions090308[1].txt  
19 THE COURT: IT NEVER HAS BEFORE.  
20 THE WITNESS: WELL, THEN IT WOULDN'T NOW.  
21 THE COURT: PLEASE GO AHEAD. I BELIEVE  
22 THAT'S APPROPRIATE.  
23 THE WITNESS: OKAY. I CONFIRMED THAT ON ONE  
24 OCCASION WARD KELLY SAW DIRECTLY GAYLE USE --  
25 GAYLE INGEST COCAINE ALONG WITH CERTAIN

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1 UNIDENTIFIED OTHER PEOPLE IN A BATHROOM OF -- IN A  
2 BATHROOM OF ONE OF THE HOUSES THEY WERE IN DURING  
3 THAT WEEKEND. I CANNOT PINPOINT TIME OR PLACE.  
4 MR. MCGLASSON: YOUR HONOR, THAT'S ALL WE  
5 HAVE OF THIS WITNESS AT THIS TIME.  
6 THE COURT: CROSS-EXAMINATION?  
7 MS. ROSS: I DON'T HAVE ANY  
8 CROSS-EXAMINATION, YOUR HONOR, THANK YOU.  
9 THE WITNESS: GOOD.  
10 THE COURT: LET ME -- HOLD ON FOR ME JUST A  
11 MINUTE, PROFESSOR.  
12 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)  
13 THE COURT: ROBERT, YOU HAVE 6 UP HERE IF YOU  
14 WANT TO GET IT, EXHIBIT 6.  
15 MR. MCGLASSON: THANK YOU. YOUR HONOR, MIGHT  
16 I APPROACH THE WITNESS?  
17 THE COURT: YES, PLEASE.  
18 (WHEREUPON, THERE WAS A PAUSE IN THE PROCEEDINGS.)  
19 THE COURT: WITHOUT TELLING ME, PROFESSOR,  
20 WHAT THEY MIGHT HAVE SAID, DURING YOUR

21 INVESTIGATION, DID YOU TALK TO ANYBODY THAT GAVE  
22 A -- THAT GAVE A DIFFERENT STORY PERHAPS A  
23 CONTRADICTORY STORY TO WHAT YOU -- WHAT YOU HAVE  
24 TOLD US HERE TODAY AS FAR AS CONDUCT?  
25 THE WITNESS: AS FAR AS?

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1 THE COURT: AS FAR AS --  
2 THE WITNESS: GAYLE ABRAMSON'S CONDUCT?  
3 THE COURT: ABOUT -- YES. WITHOUT SAYING  
4 WHAT IT IS BECAUSE I DON'T WANT IT -- FOR IT TO  
5 COME OUT OF THE JUDGE'S MOUTH. BUT AS FAR AS  
6 YOU'VE REPORTED WHAT YOU BELIEVE THAT YOU LEARNED  
7 FROM THE WITNESS' MOUTH, DID YOU TALK TO ANYONE  
8 ELSE WHO SAID, NO, I SAW SOMETHING COMPLETELY  
9 DIFFERENT OR THAT DIDN'T HAPPEN?  
10 THE WITNESS: NO.  
11 THE COURT: AND WAS -- AND YOU DO NOT HAVE TO  
12 ANSWER THIS IF THIS IS CLIENT -- ATTORNEY/CLIENT  
13 PRIVILEGE. BUT DID YOU DETERMINE IN YOUR CASE --  
14 I'M LEARNING FOR THE FIRST TIME THAT THIS -- THIS  
15 WAS NOT A MATTER IN THE SCOTT DAVIS CASE. I DON'T  
16 KNOW THAT THAT WOULD HAVE MADE ANY DIFFERENCE TO  
17 ME ONE WAY OR THE OTHER. BUT, AGAIN, THIS WAS NOT  
18 HER CONDUCT -- LET ME SAY IT THAT WAY -- WAS NOT A  
19 MATTER OF A PUBLIC MOTION IN THE DAVIS CASE; IS  
20 THAT CORRECT?  
21 THE WITNESS: YES, SIR.

22 THE COURT: AND WAS THAT BECAUSE IT WAS  
23 DETERMINED BY YOU AND MR. MORRIS, BOTH VERY  
24 EXPERIENCED CRIMINAL DEFENSE LAWYERS, THAT IT  
25 WASN'T RELEVANT OR FOR SOME OTHER REASON?

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1 THE WITNESS: IT WAS OUR DETERMINATION THAT  
2 IT WASN'T RELEVANT.

3 THE COURT: OKAY.

4 MAY HE BE RELEASED FROM HIS SUBPOENA, MR.  
5 MCGLASSON?

6 MR. MCGLASSON: YES, SIR, YOUR HONOR.

7 MS. ROSS: YES. THANK YOU, JUDGE.

8 THE COURT: I APPRECIATE YOU COMING IN.

9 THE WITNESS: THANK YOU. GOOD TO SEE YOU.

10 THE COURT: THANK YOU, SIR. YEAH, NICE TO  
11 SEE YOU.

12 THE WITNESS: THINGS HAVE CHANGED A LITTLE  
13 BIT, BUT --

14 THE COURT: WELL --

15 THE WITNESS: -- I'M STILL PRESSING ON.

16 THE COURT: I WANT TO SAY JUST FOR -- JUST ON  
17 A PERSONAL NOTE THAT -- I HOPE IT'S APPROPRIATE --  
18 THAT YOU LOOK GOOD.

19 THE WITNESS: YEP. THAT'S WHAT MY DOCTORS  
20 SAY. THEY ALL TELL ME -- I'VE HAD AN ANGIOPLASTY  
21 TWO WEEKS AGO, MY 13TH, SO. BUT I'M NOT -- YOU  
22 KNOW, I'M HAPPY. MY WIFE IS HERE. I LOVE HER,  
23 AND THAT'S PRETTY MUCH ALL YOU NEED IS ONE GOOD