

**INQUIRY CONCERNING A JUDGE
NO. 5**

DECEMBER 17, 1975

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 17, 1975

CHATHAM & ASSOCIATES
COURT REPORTERS
GUARANTY BANK PLAZA
CORPUS CHRISTI, TEXAS

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1 THE MASTER: Mr. Mitchell, here is the
2 subpoena for Mrs. Gibson that you wanted to
3 make a part of the record. I notice also you
4 have filed an additional paper titled
5 Supplementary Suggestion of Continued
6 Violation of Constitutional Protective Rights
7 which, of course, I received.

8 I have a mechanical problem that I hope
9 you understand in filing things.

10 MR. MITCHELL: I understand that,
11 Judge Meyers.

12 THE MASTER: I am not the Commission.
13 Mr. Pipkin isn't here. Can it be understood
14 that either you or I will hold both these
15 instruments and hopefully not misplace them
16 and then file them -- there is Mr. Pipkin.
17 Maybe we can file them this time.

18 MR. MITCHELL: Judge Meyers, may I just
19 put the copy of the subpoena that the Master
20 has received, can I just attach it to the
21 Supplementary Suggestion and consider it on
22 file and I appreciate, because of the earlier
23 rulings of the Court --

24 THE MASTER: Yes, I think yesterday
25 morning's session where I dictated in the

1 record in detail the subpoena situation with
2 respect to Mrs. Gibson fully protects you.
3 If you think not, then, you can fully
4 develop the record.

5 MR. MITCHELL: No, Judge Meyers, I agree,
6 having recalled the Court's statement; that
7 taken with the motion and the subpoena does
8 protect the record.

9 Now, I am holding the Supplementary
10 Suggestion. Should I give it to Mr. Pipkin?

11 THE MASTER: File it with Mr. Pipkin.

12 I want the record to reflect, Mr. Mitchell,
13 and you correct me if I am wrong, that I
14 delivered to you yesterday afternoon at a time
15 and place -- well, not place, but at least by
16 a time selected by you, the daily copy from
17 November 19th through December the 5th.

18 MR. MITCHELL: That's correct, Judge.

19 THE MASTER: Which contains all, as far
20 as I know, and my notes reflect, of Rudolfo
21 Couling's testimony.

22 MR. MITCHELL: I want to thank the
23 Court for accommodating counsel. I have
24 enjoyed reading them.

25 THE MASTER: Off the record.

1 (Whereupon, an off-the-record
2 discussion was had.)
3

4 THE MASTER: Back on the record,
5 Mr. Owen.

6 MR. MITCHELL: If the record reflects
7 counsel for the Examiner and counsel for
8 Judge Carrillo have been working this morning
9 prior to the session and I think that we can
10 perhaps save some time of the Court today
11 by perhaps stipulating some matters that will
12 save us some time, and although there is a
13 question at the commencement of the session,
14 it's done with the object of saving us a
15 considerable amount of time.

16 THE MASTER: You join in this request?

17 MR. MITCHELL: Yes, I sure do.

18 THE MASTER: Fine.
19

20 (Whereupon, a recess was taken from
21 8:40 a.m. to 9:15 a.m., at which time the
22 following proceedings were had, to-wit:)
23

24 THE MASTER: Mr. Odam, are you prepared
25 to proceed?

1 MR. ODAM: Yes, we would like to call
2 Mr. Carl Williams.

3 THE MASTER: Mr. Williams, you were
4 previously sworn. I do not see the necessity
5 of swearing you again. You are reminded you
6 are still under oath.

7 Will you have a seat, please, sir?
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1 CARL WILLIAMS,
2 recalled as a witness, having been previously sworn,
3 testified as follows, to-wit:
4

5 EXAMINATION
6

7 BY MR. FLUSCHE:
8

9 Q Your name is Carl Williams?

10 A That's correct.

11 Q And you're the executive vice-president of the
12 First State Bank of San Diego, is that correct?

13 A I am vice-president, yes, sir.

14 Q Well, you're the senior officer of the bank,
15 aren't you?

16 A I am one of the senior officers, yes, sir.

17 Q And in that capacity, do you have custody of the
18 records of the bank?

19 A I do.

20 Q And, now, in response to a subpoena, have you
21 caused to be reproduced certain instruments which
22 I have asked you to produce?

23 A Yes, sir.

24 Q And will you describe to the Court how those
25 instruments were reproduced?

1 A Yes, sir. They were reduced by means of a reader
2 printer from the microfilm records of the bank.

3 Q And do the microfilm records of the bank contain
4 each and every instrument that goes through the
5 bank?

6 A Yes, sir.

7 Q All of the checks on an individual account?

8 A Yes, sir.

9 Q And all of the deposit slips?

10 A Yes, sir.

11 Q And the advices of charge.

12 A Yes, sir.

13 Q Would you explain to the Court what an advicive
14 charge is? How the bank utilizes that instrument.

15 A An advicive charge is a debit against an
16 individual's account, usually pre-authorized by the
17 individual whereby the bank debits the account for
18 a specific purpose.

19 MR. FLUSCHE: I will ask the reporter
20 to mark these checks and other bank instruments
21 and a series to be numbered E-186-1 and E-86-2,
22 until the end of the series.

23 THE MASTER: You're saying E-86. You mean
24 E-186.

25 MR. FLUSCHE: E-186.

1 THE MASTER: I may have misunderstood
2 you, but I thought you said E-86.

3 MR. FLUSCHE: No, it's E-186.

4 THE MASTER: E-186 through some number,
5 is that right?

6 MR. FLUSCHE: Yes.

7
8 (Whereupon, said documents were
9 marked for identification as Examiner
10 Exhibits 186-1 through 33.)

11
12 Q (By Mr. Flusche) Mr. Williams, I will hand you
13 now what has been marked as E-186-1 through
14 E-186-33 and ask you if those are instruments
15 which were reproduced in your bank from records
16 that are in your custody in response to our
17 subpoena?

18 MR. FLUSCHE: You want to look at those?

19 MR. MITCHELL: Max, excuse me. Let me
20 get one at a time. I don't want to look at
21 a series if you don't mind. I want to
22 concentrate on this other page.

23 Q (By Mr. Flusche) Are you able to recognize E-181 --
24 E-186-1 through E-186-33 as being instruments that
25 were prepared from records in your bank in

1 accordance with and in the manner in which you
2 testified while ago?

3 A Yes, sir.

4 MR. MITCHELL: Judge, may I have a
5 recess, please, to make an examination of
6 the thirty-three exhibits given me, and I
7 want the record to show that I haven't seen
8 them before. I would like to have the
9 recess where I can intelligently object to
10 them. I would like to make a detailed
11 analysis of them.

12 THE MASTER: Of course, counsel has the
13 right to examine a proffered exhibit. I
14 don't know that you have proffered them at
15 this time, but, now, you're about to and
16 you'll want to take time to look at them to
17 object.

18 MR. MITCHELL: Yes, Judge.

19 THE MASTER: Mr. Mitchell, I have tried
20 lawsuits before and I understand the
21 problem. I hate to take the time, but you're
22 entitled to look at them.

23 Have you finished your authentication
24 questions? You have to ask where the
25 originals are, of course.

1 MR. FLUSCHE: Well, I may not be able
2 to prove that by this witness, Your Honor.

3 THE MASTER: Oh. Well, then you're
4 not ready to offer them?

5 MR. FLUSCHE: No, sir.

6 THE MASTER: I don't think, Mr. Mitchell,
7 you're entitled to a recess until he makes
8 his offer.

9 MR. MITCHELL: Yes, sir, I had understood
10 he was offering them; Judge Meyers, that's
11 correct.

12 Q (By Mr. Flusche) Now, let me show you,
13 Mr. Williams, what have been marked as Exhibits
14 E-176 through E-178.

15 MR. MITCHELL: Judge, I don't want to
16 be fussy, but, now, he is going to start on
17 another fifty or sixty exhibits. He has
18 already gotten thirty-three of them marked
19 and I might, for the purposes of the record,
20 and I know the Court hasn't seen them, so,
21 the Court needs to understand. They are
22 checks, Judge, to folks that have no
23 connection with this proceeding. I have
24 looked at them just hastily while I have them.
25 Now, he is going to mark another fifty

1 or sixty.

2 THE MASTER: I didn't hear the exhibit
3 numbers. What are they?

4 MR. FLUSCHE: E-174 through E-178 which
5 have previously been marked and have been
6 rejected by the Court for failure to
7 authenticate.

8 THE MASTER: Right, right, right, right.
9 Now, what did you have to say, Mr. Mitchell?

10 MR. MITCHELL: Well, of course, I am
11 not trying to run the lawsuit, except he is
12 getting another group marked and authenticated
13 that has nothing to do with the prior group.

14 THE MASTER: These have previously been
15 marked and offered and not admitted. I am
16 familiar with this series.

17 MR. MITCHELL: I understand. All I am
18 saying, Judge, is when the time comes, I do
19 want to request ample time to take each and
20 every one, particularly when they are coming
21 in tandem, in unrelated groups, to have an
22 ample opportunity to look at the series
23 apart. I wish he would go on and offer
24 them and give me an opportunity to examine
25 186-1 to 33, perhaps, and do the same with

1 the other, but it doesn't make any difference.
2 I just -- they are going to be piling up on
3 me and I guess I am crying out before I am
4 hurt.

5 We would like to have ample time to
6 examine them.

7 Q (By Mr. Flusche) Now, in examining Exhibits
8 E-174 through E-178, have you previously
9 reproduced these in response to a subpoena from
10 the Examiners in this trial?

11 A Yes, sir.

12 Q And were those reproduced by the mechanical means
13 in your bank from records that you have previously
14 testified about?

15 A Yes, sir.

16 MR. FLUSCHE: Your Honor, E-174 through
17 E-178 are offered in evidence.

18 I believe Mr. Couling testified he
19 doesn't have the originals of these
20 documents.

21 THE MASTER: Does the witness?

22 Q (By Mr. Flusche) Mr. Williams, do you retain any
23 of the originals of these documents in your bank?

24 A No, sir.

25 Q Do you know where they are?

1 A No, sir.

2 Q In the normal course of the banking business and
3 normal banking practice, what is done with the
4 originals?

5 A They are kept until the statement is made up and
6 that statement is then mailed to the customer.

7 THE MASTER: Now, this is 174 through
8 178?

9 MR. FLUSCHE: Yes, sir.

10 MR. MITCHELL: May I see them?

11 THE MASTER: Yes.

12 MR. MITCHELL: We object to E-174, 175,
13 176, 177 and 178 on the grounds that the same
14 are not legitimate rebuttal, both sides having
15 rested; beyond the First Amended Notice of
16 Hearing, thereby being irrelevant and
17 immaterial; beyond the term rule, and they
18 do not relate to the judicial acts and are
19 beyond the Nonjudicial Act Rule; hearsay;
20 no proper predicate is laid; if the Examiner
21 offers them, then we plead surprise on the
22 grounds that they raise matters not heretofore
23 noticed in the formal notice.

24 We plead surprise and we request a
25 postponement; improper authentication as

1 well.

2 THE MASTER: They are admitted only as
3 to the constitution of rebuttal evidence and
4 for that reason only.

5 MR. FLUSCHE: May we substitute copies
6 of E-174 through E-178 for the originals?

7 THE MASTER: What do you mean "for the
8 originals"?

9 MR. FLUSCHE: I mean for the duplicates
10 we do have, so we may retain these for our
11 files.

12 THE MASTER: Yes, if the Xerox is clear.

13 MR. MITCHELL: I did level the Best
14 Evidence Rule, I believe, and that was also
15 overruled?

16 THE MASTER: Yes, it was overruled.

17 MR. MITCHELL: May I examine the witness
18 on them now?

19 THE MASTER: For the purpose of further
20 objections?

21 MR. MITCHELL: Well, I would like to
22 cross-examine him on them.

23 THE MASTER: When Mr. Flusche passes
24 the witness, you may, yes. He may have some
25 more, first.

1 MR. FLUSCHE: We do, Your Honor.

2 THE MASTER: All right.

3 MR. FLUSCHE: I have some more
4 documents which I need to have marked as the
5 187-1 series through whatever they go to.
6

7 (Whereupon, the above-mentioned
8 documents were marked as Examiner's Exhibits
9 E-187-1 through 187-23.)
10

11 MR. FLUSCHE: Also these, Your Honor.

12
13 (Whereupon, the above-mentioned
14 documents were marked as Examiner's Exhibits
15 E-188-1 through E-188-27.

16 Also, 189-1 through 189-130.

17 Also, E-190-1 through E-190-193.)
18

19 THE MASTER: I want the record to
20 reflect, and we are on the record, that at
21 Mr. Mitchell's request, that at approximately
22 twenty minutes until 10:00, the Examiner
23 delivered a number of exhibits to the court
24 reporter for marking and that the marking of
25 those exhibits was not completed until

1 approximately 11:00 o'clock, and that before
2 that time, Examiner's Exhibit 186, consisting
3 of thirty-three sub-parts, was also marked.

4 The total number of exhibits is
5 approximately five hundred and eighty-three.

6 MR. MITCHELL: And that I, as attorney
7 for Judge Carrillo, have not seen them as of
8 even now.

9 I don't know what they are and I think,
10 Judge Meyers, there are many of these exhibits
11 that have many sub-parts.

12 THE MASTER: That is what I indicated,
13 that there are many sub-parts and there are
14 some A's and B's I don't have in my notes,
15 but we are dealing with in the range of five
16 to six hundred exhibits or separate pieces of
17 paper, not necessarily all exhibits.

18 You may proceed, Mr. Flusche.

19 Q (By Mr. Flusche) While we were out of the
20 courtroom during the recess, Mr. Williams, I asked
21 you to look at what has been marked as E-190-1
22 through 190-193, is that correct?

23 A Yes.

24 Q With one hundred ninety-three sub-parts.

25 A Yes, sir.

1 Q And I asked you to look at each and every one of
2 those documents and you have had an opportunity to
3 do so?

4 A I have.

5 Q In looking through those one hundred ninety-three
6 sub-parts to Exhibit E-190, did you recognize
7 those as being reproduced from exhibits maintained
8 in your bank?

9 A Yes.

10 Q And that is done, as you described earlier this
11 morning in your testimony?

12 A Yes.

13 Q And the bulk of those purport to be copies of
14 checks drawn on the Benavides Implement and
15 Hardware Company, is that correct?

16 A Correct.

17 Q And each and every one of those you have there is
18 a photostatic copy of what purports to be the
19 original of those checks?

20 A That is correct.

21 Q Do you have any of the originals of those checks
22 that you hold in your hand there in your custody
23 in the bank?

24 A No, sir.

25 Q And the practice is, I believe you testified

1 earlier, to return the originals of those checks
2 to the customer?

3 A That is correct.

4 Q At periodic intervals?

5 A Yes.

6 MR. FLUSCHE: I believe that is all I
7 have on Exhibit 190-1 through 190-193.

8 THE MASTER: All right, sir.

9 Q (By Mr. Flusche) Now, I will show you what have
10 been marked as E-187-1 through E-187-23.

11 Have you had an opportunity to look at those?

12 A I don't believe I have, sir.

13 Q All right. Will you take that time now.

14 A Yes.

15 Q Let me interrupt you.

16 Do you recall earlier that I handed you a
17 series of bank deposits when you first arrived?

18 A Yes.

19 Q Do those appear to be the same group I handed you
20 when you arrived this morning?

21 A I don't remember, sir.

22 Q All right. Continue looking, if you will.

23

24 (Witness looking through exhibits
25 handed to him.)

1 Q What is that series of documents; what do they
2 purport to show?

3 A This series of documents shows photocopies of
4 checks and deposits made generally on the
5 Benavides Implement and Hardware Company.

6 MR. MITCHELL: I am going to object to
7 him going into the content of them. There is
8 no way I can protect my client and the record.

9 THE MASTER: If it goes any further than
10 this, I will sustain the objection. He can
11 identify what is generally in the packet.

12 What is that number?

13 MR. FLUSCHE: This is 187-1 through
14 187-23.

15 Q (By Mr. Flusche) Are the bulk of the documents
16 contained in E-187 photocopies of deposit slips
17 in your bank purporting to reflect deposits to
18 the bank account of Benavides Implement and
19 Hardware Company?

20 A Deposit slips and checks, yes, sir.

21 Q And were these instruments reproduced in your bank
22 and under your supervision in the same manner as
23 you testified to earlier this morning?

24 A Yes, sir.

25 MR. FLUSCHE: Do you want to look at

1 these?

2 MR. MITCHELL: I don't intend to waive
3 a motion of a continuance to give me an
4 opportunity to go into each and every one.

5 THE MASTER: Mr. Mitchell, I am content,
6 once these various documents have been
7 identified, to recess for the balance of the
8 day.

9 MR. MITCHELL: I was going to make that
10 request.

11 Documents that take two hours to mark
12 should take five days for me to go over in
13 detail.

14 THE MASTER: I don't agree with that,
15 but it did take more than an hour to mark
16 them.

17 I suggest, gentlemen, counsel has a
18 valid request and that the only thing to do
19 today is to get E-187, E-188 and E-189
20 identified. E-190 has been identified and
21 at the same time permit counsel to look at
22 them and then come back tomorrow morning and
23 see if counsel has a further request.

24 MR. MITCHELL: Let me say this to the
25 Court out of fairness. The purpose for my

1 examination of them now would be solely and
2 only to touch on the question of authenticity.
3 If they do come in, I will make another
4 request to prepare a defense to them,
5 assuming they raise matters far afield --

6 THE MASTER: That is not a request that
7 you are presently making?

8 MR. MITCHELL: That is right. I do want
9 to have time to prepare subpoenas for these
10 folks and make a legitimate honest effort to
11 try to defend my client on the five hundred
12 eighty-six documents that have already been
13 introduced.

14 In other words, I don't want the Court
15 to say you should have told me that yesterday.

16 MR. ODAM: The documentation we are
17 going through now on rebuttal that has been
18 identified by Mr. Williams, would be for the
19 purpose of rebuttal only.

20 MR. MITCHELL: Excuse me, Judge, I
21 think it is inappropriate to comment on the
22 purpose when I have not seen them.

23 THE MASTER: If there were a jury present,
24 I would agree, Mr. Mitchell.

25 MR. ODAM: I recognize that and I am not

1 going into detail on what these speak to,
2 but I wanted to clarify and pose the inquiry,
3 which I am sure would be helpful to
4 Mr. Mitchell and us.

5 Are we, in proceeding along this -- I
6 guess it would be, in terms of relevancy,
7 going to take the time for Mr. Mitchell to
8 examine the documents, and I wondered, is
9 that a question we are going to have to reach
10 at a later point or not?

11 If it is not relevant, then that would
12 give both sides an opportunity to understand
13 how to develop the record.

14 THE MASTER: At this stage, I want you
15 to finish with Mr. Williams with the
16 identification of these exhibits. I then
17 want them delivered to Mr. Mitchell for
18 examination and there is no choice, I will
19 have to recess until tomorrow morning.

20 MR. MITCHELL: We would like to have
21 Mr. Williams back tomorrow morning as well,
22 Your Honor.

23 THE MASTER: Yes, that is correct.

24 Mr. Williams, I will have to impose
25 upon you further to be here tomorrow morning.

1 MR. ODAM: Part of the exhibits are to
2 be authenticated by Mr. Rudolfo Couling. I
3 don't know that his testimony is necessary,
4 but could we put him on?

5 MR. MITCHELL: Judge, we are working and
6 have worked from 8:30 until 11:15. I would
7 like to take off this afternoon myself.

8 If I am going to be required to look at
9 eight hundred to a thousand exhibits --

10 THE MASTER: It is not that many.

11 MR. MITCHELL: There are a lot of sub-
12 parts. I think the Court is going to be
13 surprised.

14 What I am suggesting is that I would
15 like to take off this afternoon, too, and I
16 would like to come back tomorrow at 12:00
17 and commence work. I don't see why the
18 Examiner should take up our time this
19 morning marking these and then me take the
20 afternoon to look at them.

21 THE MASTER: I don't think anyone here
22 says, and if he does, I would be surprised,
23 that either lawyer or the Master has taken
24 off in the afternoons. I don't feel I am
25 imposing on you to say to spend your afternoon

1 working on these exhibits. I have been
2 reading copy and --

3 MR. MITCHELL: Yes, I probably read
4 myself until 2:00 this morning.

5 THE MASTER: I wondered where you were,
6 as a matter of fact.

7 Are you telling me that E-188 and E-139
8 are to be authenticated by Mr. Couling rather
9 than this witness?

10 MR. ODAM: Yes, sir.

11 THE MASTER: Have you finished with the
12 authentication testimony of this witness?

13 Well, my notes show 186 as being
14 testified to.

15 MR. ODAM: Yes, that is 179 --

16 THE MASTER: Would you represent to me
17 and counsel what Mr. Couling will say about
18 those?

19 MR. ODAM: Mr. Couling, on those --

20 THE MASTER: They are originals?

21 MR. ODAM: Yes, sir, both deposit slips
22 and checks.

23 That he would testify that he could
24 identify his signature, that he made out the
25 check and that it is well authenticated and

1 the same thing on the bank deposits of the
2 deposit slips which were received by him and
3 made in the normal course of business
4 procedures.

5 MR. MITCHELL: I will say this, Your
6 Honor, I will have extensive cross-
7 examination of Mr. Couling.

8 The relevancy would be this, if he
9 authenticates these, as counsel said he
10 would, and I will then take him through each
11 and every one of them. My cross will
12 probably extend another day or two.

13 THE MASTER: That is all right. I made
14 that request of the Examiner to avoid, if I
15 could, putting Mr. Couling on now. The
16 Examiner is going to tell you that he signed
17 these checks and with that, could you start
18 your examination of these documents
19 tomorrow?

20 MR. MITCHELL: Yes, I can do so provided --
21 well, I am going to make a motion to go with
22 it.

23 The motion will be for the ample time to
24 examine and a motion to be allowed to
25 withdraw all of these exhibits for the purpose

1 of preparing questions for cross-
2 examination. I would like to have some
3 notation as to which are originals or copies.

4 I noticed in the 174 series, they
5 substituted copies for copies. He put a copy
6 in and then is substituting a copy.

7 In answer to the Court's question, yes,
8 I will be prepared, and what I am charged
9 with and be ready to proceed.

10 THE MASTER: I understand 186 series of
11 exhibits are photocopies authenticated by
12 Mr. Williams?

13 MR. ODAM: Yes.

14 THE MASTER: And 174 through 178 are
15 photocopies?

16 MR. ODAM: Yes.

17 MR. MITCHELL: That is right, Judge. He
18 is the authenticating witness, if he made it.

19 MR. ODAM: Yes.

20 THE MASTER: And that with my permission,
21 you have the photostatic copies of 174
22 through 178 available, I believe, but you are
23 going to furnish copies of those for
24 comparison?

25 MR. ODAM: Yes.

1 THE MASTER: And E-187-1 through 23 are
2 checks and bank deposit slips, photocopies,
3 and again authenticated by Mr. Williams, and
4 that is also true of E-190.

5 Now, you tell me, and you represent to
6 me and to counsel that E-188 and E-189 are
7 originals?

8 MR. ODAM: Yes.

9 THE MASTER: And the authenticating on
10 those exhibits would be Mr. Couling and he is
11 going to say that is his signature and
12 handwriting, is that correct?

13 MR. ODAM: Yes, either his handwriting
14 or would testify it was made out in the
15 normal course of business.

16 THE MASTER: All right.

17 MR. MITCHELL: So that the record --
18 anyone reading the record will know what is
19 happening, that is what has appeared as of
20 the official transcript, I would like to have
21 it noted --

22 THE MASTER: The original is not there,
23 but it is a photocopy of the mechanical process
24 used by the bank to preserve it.

25 Let me ask Mr. Williams.

1 Mr. Williams, is it a microfilm system?

2 THE WITNESS: Yes.

3 THE MASTER: You take a picture and then
4 reproduce that?

5 THE WITNESS: Yes.

6 THE MASTER: What I am prepared to admit
7 is that they furnish you E-174 through E-178
8 as marked and offered and now admitted with
9 the Xerox so you can compare them.

10 MR. MITCHELL: All right.

11 THE MASTER: They want those back,
12 obviously, and we could ask Mr. Williams to
13 make another copy of those, but there is no
14 point in that if they have an adequate Xerox
15 of those copies.

16 MR. MITCHELL: May I ask the witness a
17 question without waiving any other question?

18 THE MASTER: Yes, sir.
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21
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23
24
25

V O I R D I R E E X A M I N A T I O N

1
2
3 BY MR. MITCHELL:
4

5 Q Mr. Williams, I think you have the standard
6 microfilm equipment in the bank?

7 A Yes.

8 Q And all the data on E-174 and 187 and 190 has been
9 retrieved from that microfilm?

10 A Yes.

11 Q And you have reproduced that in the form of these
12 exhibits?

13 A Yes, it is sixteen millimeter film.

14 Q That is blown up to various sizes?

15 A Yes.

16 Q And Xerox copies are taken of that?

17 A They can be, yes.

18 THE MASTER: But not in this record.

19 MR. MITCHELL: Yes, the Judge permitted
20 a Xerox to be made of it and I don't mind the
21 substitution, but I understand they took a
22 microfilm of the exhibit in this record and
23 then made a Xerox of that exhibit, or those
24 exhibits, E-174 through 178.

25 THE MASTER: Right.

1 MR. MITCHELL: Thank you, Judge
2 Meyers.

3 MR. ODAM: One other brief comment.

4 If we give to Mr. Mitchell this
5 afternoon 179-30 to 34, these are the same in
6 evidence as the earlier 179 series.

7 THE MASTER: The five that were not
8 earlier authenticated by Mr. Couling?

9 MR. ODAM: Yes, sir.

10 THE MASTER: 30 through 34 of Exhibit
11 179?

12 MR. ODAM: Yes, sir.

13 THE MASTER: Mr. Mitchell, it is
14 immaterial with me whether you work here or
15 somewhere else with these exhibits.

16 We, of course, desire to not lose them.

17 MR. MITCHELL: Yes, I understand.

18 THE MASTER: Where do you want to work?

19 MR. MITCHELL: Judge, the Court indicated
20 earlier the Court of Civil Appeals might need
21 the courtroom.

22 THE MASTER: No, they have already used
23 it.

24 MR. MITCHELL: I believe I had just as
25 soon work here.

1 THE MASTER: Work with them exhibit by
2 exhibit and if by 5:00 o'clock you want to
3 take an exhibit home -- home --

4 MR. MITCHELL: Why sure.

5 THE MASTER: Pardon me.

6 MR. MITCHELL: Home away from home,
7 Sheraton Alley.

8 THE MASTER: You have my permission to
9 do so.

10 MR. MITCHELL: All right. Thank you.

11 THE MASTER: But be sure you maintain
12 all of its sub-parts.

13 MR. MITCHELL: All right.

14 THE MASTER: And bring it back at 8:30
15 tomorrow morning.

16 Mr. Williams, I regret imposing on you,
17 but I will have to ask you to return to the
18 courtroom at 8:30 tomorrow morning.

19 We will be in recess.

20 MR. MITCHELL: Judge Meyers, before we
21 get off the record, I asked that you file the
22 subpoena with Mr. Pipkin. Has this been done?

23 THE MASTER: I think I noted that the
24 first thing and Mr. Pipkin came in and I asked
25 that it be filed with him.

1 MR. MITCHELL: In view of the marking
2 at this late hour of all of these exhibits,
3 I would reassert and call to the attention of
4 the Court, Paragraph 5, as it relates to the
5 concealment and suppression of documentation
6 which runs counter to the specifications,
7 specifically conspiracy and partnership
8 counts. I can tell that reconstructing the
9 Benavides Implement and Hardware account
10 in toto is being done and I do want to call
11 the attention to whoever is reading the
12 record of the continued violation of Roman V
13 as it relates to due process violations and
14 suppression of evidence and that is not a
15 partnership account and has never been and I
16 reassert that for the record.

17 THE MASTER: All right, sir. We are in
18 recess.

19
20 (Whereupon, at 11:40 a.m., December 17,
21 1975, the hearing was in recess until 8:30 a.m.,
22 December 18, 1975.)
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25