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Proceedings recorded by electronic sound recording, transcript produced by transcription service.

1 (Court in Session at 10:22 a.m.)

2 THE COURT: All right. Good morning. We're on the case
3 of case of *United States vs. Troy Solomon and Delmon Johnson, et*
4 *al.*, Case No. 08-26-CR-W-FJG. If counsel would state their
5 appearance for the record.

6 MR. BOHLING: Curt Bohling for the United States. With
7 me is Rudolph Rhodes and Special Agent Judy Waterson.

8 MR. BANNWART: Anthony Bannwart present for Defendants
9 Troy Solomon and Delmon Johnson.

10 MR. LEWIS: Good morning, Your Honor. Chip Lewis for
11 Mr. Solomon.

12 MS. RUDEN: And Mary Grace Ruden for Mr. Solomon.

13 THE COURT: All right. Is everyone ready to proceed?

14 MR. BOHLING: The Government is ready, Your Honor.

15 THE COURT: Let me just take up one administrative
16 matter. The defendants, I think they went ahead and filed it, a
17 joint response to the Government's Motion for Determination of
18 Joint Representation, but it was accompanied by a motion asking
19 for leave to file it out of time. Is there any objection to that
20 being filed out of time?

21 MR. BOHLING: No, Your Honor.

22 THE COURT: All right. Then even though you went ahead
23 and filed it we will deem it having been properly filed. All
24 right. You may call your first witness.

25 MR. BOHLING: Your Honor, first, I'd simply like to put

1 on the record that we have formally tendered a plea agreement
2 offer to Defendant Delmon Johnson. It includes the invitation to
3 have an opportunity to earn a 5K letter. That, of course, would
4 not be ripe yet until -- unless and until he were to come in and
5 speak to us. But I simply wanted to put that on the record that
6 that has now been formally tendered.

7 THE COURT: All right.

8 MR. BANNWART: Judge, equally for the record, I would
9 ask the Court to recognize that that was provided to us a little
10 bit after ten o'clock this morning.

11 MR. BOHLING: That's correct.

12 THE COURT: All right. Although, I mean, I did note
13 that on your first point or one of the points of your motion with
14 respect to joint representation, there was an argument that
15 because of their difference in plea negotiations, potential for a
16 plea, that a conflict had arisen, and really the defense response
17 was simply, well, you've never made any kind of offer.

18 MR. BOHLING: That --

19 THE COURT: With that offer now having been made, are
20 the defendants going to want an opportunity to make some kind of
21 further response to the argument that that puts these defendants
22 in different positions?

23 MR. BANNWART: We can -- we don't need to make a further
24 written response, Your Honor. We can respond to that in our
25 portion if that's what you're asking.

1 THE COURT: All right. Well, I mean, I think at some
2 point you're going to need to respond.

3 MR. BANNWART: Right.

4 THE COURT: And if you choose to do that today, that's
5 fine.

6 MR. BANNWART: Right.

7 THE COURT: All right. You may proceed.

8 MR. BOHLING: Your Honor, the United States would call
9 Pleshette Johnson.

10 THE COURT: Come forward and she'll swear you in.

11 PLESHETTE JOHNSON, GOVERNMENT'S WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MR. BOHLING:

14 Q. Please state your name and spell your first and last name.

15 A. Pleshette Johnson. P-L-E-S-H-E-T-T-E, Johnson, J-O-H-N-S-O-
16 N.

17 Q. In what city do you live, ma'am?

18 A. Houston, Texas.

19 Q. How are you employed?

20 A. I am -- how am I employed?

21 Q. Yes. What's your -- what is your profession?

22 A. I am a Doctor of Chiropractic.

23 Q. How long have you been a Doctor of Chiropractic?

24 A. Since 2001.

25 Q. Are you associated with a business called Southwest Texas

1 Wellness Center? South Texas Wellness Center, sorry.

2 A. Yes.

3 Q. Okay. My mistake. And how long has that business been in
4 existence?

5 A. It has been in existence since 2004.

6 Q. I understand that there are now two entities that you'll --
7 that you are associated with, two different clinics?

8 A. Yes.

9 Q. Okay. And speaking of South Texas Wellness Center, what is
10 the business address of that business?

11 A. 3003 South Loop West, Suite 415, Houston, Texas 77054.

12 Q. And what kind of building is that?

13 A. It is a professional building.

14 Q. What's the nature of the practice at Southwest -- South Texas
15 Wellness Center?

16 A. It is a multi-specialty clinic.

17 Q. Do you know a person named Troy Solomon?

18 A. Yes.

19 Q. Okay. When did you first meet Mr. Solomon?

20 A. I first met him in 2004.

21 Q. Do you see Mr. Solomon here in court today?

22 A. Yes.

23 Q. And would you please point him out by his location in the
24 courtroom?

25 A. Second from the right.

1 Q. Okay.

2 MR. BOHLING: May the record reflect the identification
3 of Defendant Solomon, Your Honor.

4 THE COURT: Yes. And let me just, I probably should
5 have asked you before we got started. I know there has been a
6 Motion to Compel Testimony filed and granted by Judge Gaitan. I
7 assumed that was a large part for trial, but I didn't know if
8 that also related to this proceeding.

9 MR. BOHLING: It does, Your Honor. I --

10 THE COURT: And I assume you'll make a record on this at
11 some point here quickly about where we're going. And I think the
12 record needs to reflect, you know, what you asked of Judge Gaitan
13 and what kind of order you got in response.

14 MR. BOHLING: Oh, very well, Your Honor. I would then
15 put on the record that the United States made a formal request of
16 Judge Gaitan to provide this witness immunity under the Immunity
17 Statute, 18 U.S.C. Section 6003(b), by Document 212, filed in
18 this case yesterday. Judge Gaitan entered an order pursuant to
19 that statute and to the relevant CFR section providing Pleshette
20 B. Johnson with immunity concurrent with the statute. In other
21 words, that she no longer has the right to refuse to give
22 testimony before the court in this hearing and at trial as to any
23 matter which -- for which she may be interrogated before the
24 court.

25 THE COURT: All right. And does that affect her right

1 to, in your view, be represented by counsel as she testifies,
2 either in this proceeding or in court?

3 MR. BOHLING: No. And she is -- she does have counsel
4 here with her.

5 THE COURT: All right.

6 MR. BOHLING: Marshall Taheri from Houston, Texas.

7 THE COURT: All right. And -- all right. Thank you
8 very much.

9 BY MR. BOHLING:

10 Q. What is your formal title within the clinic, within the South
11 Texas Wellness Clinic?

12 A. I am a chiropractor. I'm one of the staff doctors there.

13 Q. And is your mother, Ada Johnson, also involved in this
14 business?

15 A. Yes, sir.

16 Q. And what is her formal title within the clinic?

17 A. Director of the clinic.

18 Q. In 2004, did there come a time when you and your mother were
19 seeking an investor or an investment within South Texas Wellness
20 Center?

21 A. Yes, sir.

22 Q. Okay. And who, if anyone, provided investment into South
23 Texas Wellness Center at that time?

24 A. Troy Solomon.

25 Q. Okay. And do you remember approximately when Mr. Solomon

1 first started investing money into South Texas Wellness Center?

2 A. I do not recall the month, but it was in 2004.

3 Q. Okay. Was there any kind of written agreement that
4 accompanied his investment into the company?

5 A. No, sir.

6 Q. Okay. What was the form of investment? In other words, was
7 it by check, money order or another form?

8 A. Another form.

9 Q. Okay. What was the form of the investment there or the money
10 that you received from Mr. Solomon?

11 A. Cash.

12 Q. Okay. And do you remember approximately how much cash in
13 total Mr. Solomon provided to the business?

14 A. I don't recall exactly. Approximately, maybe 25,000.

15 Q. And do you remember when he stopped providing cash investment
16 to the business?

17 A. I do not recall. I do not.

18 Q. Do you have a ballpark figure? Let me ask it this way.
19 Would it have been in the year 2004 or the year 2005, if you
20 remember that?

21 A. 2004.

22 Q. Okay. How was the cash actually provided to you or to your
23 mother?

24 A. What do you mean?

25 Q. I mean, was it -- how was it -- was it -- where was the cash

1 delivered?

2 A. It was -- we either got it at the facility -- at the clinic
3 or once we went to his home and got it.

4 Q. Okay. Was there a time when you and Ada Johnson entered into
5 an agreement with Mr. Solomon to provide him some of the revenue
6 of a portion of the business of the clinic?

7 A. Say that question again, please.

8 Q. I know. It --

9 A. Yeah.

10 Q. Did there come a time when you agreed with Mr. Solomon, or
11 you and your mother agreed with Mr. Solomon, to provide him with
12 some of the revenue that was being generated by the operation of
13 the clinic?

14 A. Yes.

15 Q. And tell us the details of that, if you will.

16 A. There was a certain percentage breakdown, depending on where
17 the revenues came from, because we're a multi-specialty clinic.

18 Q. And do you remember the details of how that worked? What
19 type of patients or services that were provided that would then
20 result in some of kind of payment to Mr. Johnson? I'm sorry, to
21 Mr. Solomon?

22 A. There was a breakdown for pain management. There was a
23 breakdown for weight management. We had a breakdown for physical
24 medicine and rehab, which is through Medicare/Medicaid. And that
25 may have been lumped in with personal injury or worker's comp. I

1 can't recall that specifically. But there was a percentage
2 breakdown.

3 Q. Do you recall Mr. Solomon opening up a pharmacy called
4 Ascensia Nutritional Pharmacy?

5 A. Yes.

6 Q. And where did that pharmacy open, its physical location?

7 A. It's within the building on the same floor.

8 Q. Did that happen before or after he became an investor in your
9 clinic?

10 A. After.

11 Q. Okay. Do you know how it came to be that Ascensia was opened
12 in the same building as your clinic?

13 A. I don't.

14 Q. Okay. Do you know whether or not patients who were seen at
15 Ascensia would have prescriptions filled at -- I'm sorry, seen at
16 South Texas would have prescriptions at Ascensia?

17 A. Yes.

18 Q. Was that a common occurrence, to your knowledge?

19 A. It was convenience for the patient.

20 Q. Now, do you know a person named Anthony Bannwart?

21 A. Yes.

22 Q. Okay. And do you see him in the courtroom here today. I'll
23 get that out of your way.

24 A. Yes.

25 Q. Okay. And can you identify him by where he's seated?

1 A. The gentleman on the corner.

2 MR. BOHLING: May the record reflect that she's
3 identified Mr. Bannwart?

4 THE COURT: Yes.

5 BY MR. BOHLING:

6 Q. How did you come to know Mr. Bannwart?

7 A. I was initially introduced to him with Rob and Jackie.

8 Q. Okay. Who are Rob and Jackie?

9 A. Rob and Jackie are the -- they're the couple that introduced
10 us to Troy Solomon.

11 Q. And what do they do?

12 A. They owned an adult daycare.

13 Q. Was that also in the building where your clinic was located?

14 A. No, sir.

15 Q. Okay. And after Rob and Jackie introduced you to Mr.
16 Bannwart, did your clinic enter into any kind of business
17 relationship with him?

18 A. No, sir.

19 Q. Was there some kind of referral relationship?

20 A. Yes.

21 Q. Okay. And can you please describe to the Court what that --
22 what the nature of that relationship was?

23 A. Personal injury cases. Our patients used him to represent
24 them.

25 Q. And what role did the clinic play in introducing the patients

1 to Mr. Bannwart?

2 A. The patients already had him as an attorney, if recall
3 correctly.

4 Q. Okay. Once the patients went to see Mr. Bannwart and were
5 represented by him, was there any occasion then for any part of
6 their recovery to come back to the clinic?

7 MR. BANNWART: Objection, Your Honor, relevance.

8 THE COURT: Overruled.

9 BY MR. BOHLING:

10 Q. You can answer that.

11 A. Okay. Repeat your question one more time, please.

12 Q. Okay. The patients would be -- if I understand what you're
13 saying, the patients would be represented by Mr. Bannwart --

14 A. Yes.

15 Q. -- in a personal injury context?

16 A. Yes, sir.

17 Q. And on occasion they would recover -- they would have -- make
18 a recovery of money, correct?

19 A. Yes, sir.

20 Q. Okay.

21 A. Once that money was recovered, did any of it ever go back to
22 the clinic, to your clinic, South Texas?

23 A. Yes. We were reimbursed for our medical expenses, the
24 medical bills.

25 Q. So, for your actual out-of-pocket expenses for seeing the

1 patient?

2 A. Yes, sir.

3 Q. Okay. And did that then come from Mr. Bannwart and his
4 office?

5 A. Yes.

6 Q. Okay. And do you remember approximately how many times that
7 occurred?

8 A. Approximately three to five times.

9 Q. Do you recall how much money was involved?

10 A. No, I don't. I do not recall.

11 Q. At some point did Mr. Solomon seek to be -- to have an actual
12 formal ownership in South Texas?

13 A. We discussed a business deal.

14 Q. And who does "we" include?

15 A. Ada Johnson, myself and Troy Solomon.

16 Q. What was the nature of the discussion that was had about
17 that?

18 A. We discussed doing a business deal and we met at Attorney
19 Bannwart's office. There was another person in there also. And
20 we talked about what exactly the responsibilities or liabilities
21 would be with each investor and each partner in the business.

22 Q. Do you recall approximately when this meeting occurred?

23 A. I do not recall.

24 Q. Even by year?

25 A. Year, it had to be 2004.

1 Q. Do you know why the meeting ended up occurring in Mr.
2 Bannwart's office?

3 A. I do not recall. I don't recall. I know that's where it was
4 suggested that we meet, so we met.

5 Q. Do you remember who suggested it?

6 A. Not specifically, no.

7 Q. Who was present during this meeting in Mr. Bannwart's office?

8 A. Myself, Ada Johnson, Troy Solomon, Attorney Bannwart and
9 Philip. I can't -- I don't remember Philip's last name, but
10 Phil. He was also working with the pharmacy.

11 Q. Okay. With Ascensia Pharmacy?

12 A. Uh-huh. Yes, sir.

13 Q. Okay. Do you know if Philip had any legal background?

14 A. To my knowledge, he was an attorney.

15 Q. Okay.

16 MR. BOHLING: Your Honor, I'd like to offer into
17 evidence Exhibit #3. I would proffer to the Court that this
18 exhibit has already been provided to the Court by Mr. Bannwart as
19 an attachment to Document 138, which I believe is actually
20 reflected on the copy that I provided to the Court. And I would
21 offer it on that basis.

22 THE COURT: All right. Any objection?

23 MR. BANNWART: No objection, Your Honor.

24 MR. BOHLING: May I approach the witness?

25 THE COURT: Yes. All right. Government Exhibit #3 will

1 be admitted.

2 BY MR. BOHLING:

3 Q. I've handed you a copy of what's now been entered into
4 evidence as Government's Exhibit #3. I believe I showed you this
5 document this morning, correct?

6 A. Yes, sir.

7 Q. And had you actually seen the document in this form before
8 this morning?

9 A. No, sir.

10 Q. Okay. But was there discussion between you, your mother and
11 Mr. John -- Mr. Solomon, I'm sorry -- about creating a document
12 like this that would create a corporation in which Mr. Solomon
13 would have an interest?

14 A. Yes. There had been discussion.

15 Q. Okay. And I would point your attention to the top of that
16 document where it says "SOJO Enterprises, Inc."

17 A. Yes, sir.

18 Q. Was there also discussion about possible names for this
19 corporation?

20 A. Yes, sir.

21 Q. And was SOJO Enterprises one of the names that was
22 considered?

23 A. Yes, sir.

24 Q. Okay. And the SOJO, what would that stand for?

25 A. Our last names, Solomon and Johnson.

1 Q. Okay. Turning your attention to page 2 of the document, do
2 you see your name on that document?

3 A. Yes, sir.

4 Q. Okay. And do you remember whether or not there was any
5 discussion about who the directors of this corporation would be?

6 A. I do not recall.

7 Q. Okay. Again, before this morning, had you seen this document
8 with your name on page 2?

9 A. No, sir.

10 Q. Okay. Looking at page 3, Article 8.

11 A. Uh-huh.

12 Q. Do you see -- discusses who the initial registered agent will
13 be?

14 A. I see that.

15 Q. Okay. And could you please read that name into the record?

16 A. The Initial Registered Agent is Anthony L. Bannwart &
17 Associates, P.C.

18 Q. Do you recall being involved in discussions about who the
19 initial registered agent would be for this corporation?

20 A. No, sir.

21 Q. Okay. Did you and your mother Ada ever enter into a formal
22 agreement or an incorporation document which provided Troy
23 Solomon with an actual interest in South Texas Wellness Center?

24 A. No, sir.

25 Q. Why not?

1 A. We did not agree upon the ideas. He did not want to take any
2 responsibility or have any liability within the company.

3 Q. Going back to the meeting that occurred in Mr. Bannwart's
4 office, did you and your mother make it clear at that point that
5 you were not satisfied with the current -- the proposal that was
6 being discussed to provide Mr. Solomon an interest?

7 A. I do not exactly remember. But it was clear that we did not
8 agree upon any type of business dealings right then.

9 Q. And was that made verbally clear by you or your mother during
10 the course of the meeting?

11 A. Not to agree upon what was on the table?

12 Q. Correct.

13 A. Yes, sir.

14 Q. Okay. After that meeting in Mr. Bannwart's office, were you
15 personally involved in any further discussions about Mr. Solomon
16 becoming an owner or having a formal interest in South Texas?

17 A. I don't recall. I don't think it was brought up again.

18 Q. You told us about the clinic providing some payments from
19 certain classes of patients or care to Mr. Solomon, do you recall
20 that?

21 A. Yes, sir.

22 Q. Did there come a time when that arrangement ended?

23 A. Yes, sir.

24 Q. Do you remember when that happened?

25 A. In 2004. I don't remember the month, the specific date.

1 Q. Do you remember any other events that occurred around that
2 time?

3 A. Dr. Elder eventually moved on also.

4 Q. And why was -- did that have any significance then in the
5 payments no longer going to Mr. Solomon?

6 A. I don't know.

7 Q. Okay.

8 A. I don't know.

9 Q. But those two event happened around the same time in your
10 recollection?

11 A. Yes, sir.

12 Q. Dr. Elder leaving your clinic?

13 A. Uh-huh. Yes, sir.

14 Q. Thank you.

15 MR. BOHLING: That's all I have, ma'am.

16 THE COURT: All right. Any cross-examination?

17 MR. LEWIS: With the Court's permission, Your Honor, as
18 an interested party to Mr. Solomon, I have a couple questions.

19 THE COURT: All right.

20 MR. LEWIS: Thank you, Your Honor.

21 MR. BOHLING: Your Honor, I would object to this
22 procedure. I think it actually goes to kind of the heart of one
23 our issues. But generally, a defendant or a party has one
24 attorney who asks questions for that party. I guess --

25 THE COURT: Right. And so I would assume then that Mr.

1 Lewis is going to be asking them for --

2 MR. LEWIS: Mr. Solomon.

3 THE COURT: -- Mr. Solomon.

4 MR. LEWIS: That's correct, Your Honor.

5 THE COURT: Okay. And so do you have an objection to
6 that?

7 MR. BOHLING: If Mr. Bannwart is also going to ask
8 questions, I would. If it's only one of them, I won't.

9 THE COURT: Well, we also have Mister --

10 MR. LEWIS: Johnson.

11 THE COURT: -- Johnson.

12 MR. BOHLING: Okay. That -- so, okay. I understand. I
13 -- yes. I do object to that. And I think it goes --

14 THE COURT: And why?

15 MR. BOHLING: Because I think it goes to the heart of
16 the point we're making about the differences in interest. I've
17 never seen a situation where one party had an attorney where they
18 were also jointly represented. And I think it's an inherent
19 conflict of interest. And so I would object to it on that basis.

20 THE COURT: Well, let me just stop you right there. If
21 Mr. Lewis weren't here, you would object to Mr. Bannwart asking
22 questions on behalf of both defendants?

23 MR. BOHLING: No. I'm objecting to the whole
24 arrangement that exists in this case, because I don't -- the
25 problem is that -- we're certainly going to object at trial if

1 there's a proposal that both of these gentlemen cross-examine, I
2 don't think that can happen. And we will certainly object at
3 trial. Perhaps for the purposes of the hearing it's not as
4 important, but at trial it's absolutely crucial, because they do
5 not share the same duties to these clients, and there's an
6 inherent conflict between the counsel, because Mr. Lewis only has
7 duties to Mr. Johnson. Mr. Bannwart has duties to both --

8 THE COURT: I'm sorry. I think you're -- I thought Mr.
9 Lewis represented Mr. Solomon.

10 MR. BOHLING: I'm sorry. I'm mixing that up all day and
11 I apologize. Mr. Lewis only duties --

12 THE COURT: All right.

13 MR. BOHLING: -- to Mr. Solomon. Mr. Johnson has duties
14 to both. And the problem that creates is that Mr. Lewis -- when
15 there's a joint representation situation there are concomitant
16 responsibilities that the attorney has not to create conflicts
17 between the two. Mr. Johnson -- there are no duties that exist
18 between Mr. Lewis and Mr. Johnson. So, that's the issue that
19 arises. It essentially creates an end-run around the whole
20 notion of the waiver of joint representation. I don't think Mr.
21 Johnson can possibly waive any conflict that might arise from a
22 single representation between Mr. Lewis and Mr. Solomon. And I
23 think that's why I've never seen this arrangement. I can't find
24 any memos, any case that talks about this kind of arrangement. I
25 think it's impossible actually from a conflict situation

1 perspective.

2 MR. LEWIS: Your Honor, I'll save any retort to that for
3 argument as to why it's not a conflict. I just think the
4 prophylactic measure that's cleaner for, especially why we're
5 here, is my duty does flow to Mr. Solomon. And I need to ask
6 relevant questions to assure that I am in this hearing
7 articulating his best interests. I can't do that without cross-
8 examining the witnesses.

9 MR. BOHLING: And that's exactly my point. That's, I
10 think, where the issue goes. He only has duties for Mr. Johnson,
11 not for Mr. Solomon. I think the joint representation either has
12 to be to everyone or they have to be separately represented.
13 That's my issue.

14 THE COURT: All right. Well, I think for purposes of
15 this proceeding we just need to go forward and --

16 MR. BOHLING: I understand.

17 THE COURT: -- I understand your objection.

18 MR. BOHLING: Thank you, Your Honor.

19 THE COURT: You may proceed.

20 MR. LEWIS: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. LEWIS:

23 Q. Good morning, ma'am.

24 A. Good morning.

25 Q. My name is Chip Lewis. I don't think we've ever had the

1 pleasure of meeting.

2 A. No, sir.

3 Q. I'm going to ask you a few questions about the immunity
4 agreement. You're testifying here today because the Government
5 has granted you immunity, or is it voluntary?

6 A. I don't understand the --

7 Q. Have you been given the Court's order compelling you testify
8 in this case?

9 A. I was asked.

10 Q. Okay. Have you seen an actual order signed by His Honor
11 Gaitan relative to your testimony in this case?

12 A. Yes, sir.

13 Q. And did you understand that order, in essence, compelled your
14 testimony, ordered you to testify under the threat of contempt?

15 A. My attorney handled all that, so I don't --

16 Q. Okay. And I don't want to go in --

17 A. -- know exactly.

18 Q. Pardon me for stepping on your words. I don't want to go
19 into the substance of any of your conversations with your lawyer.
20 Those are protected. I'm just talking about your understanding
21 of the order compelling you to testify.

22 A. I do understand.

23 Q. And it is pursuant to that order that you're here today?

24 A. Yes.

25 Q. Okay. I want to ask you just a few questions, Ms. Johnson,

1 about the arrangement of Mr. Solomon taking an interest in South
2 Texas Wellness Center that you testified about.

3 A. Okay.

4 Q. You stated that there was an original meeting in which Mr.
5 Solomon provided \$25,000 investment into the company?

6 A. A total or approximation of that total.

7 Q. Approximately \$25,000.

8 A. Approximately.

9 Q. Was that money given to you or to your mother?

10 A. Who was it actually hand-given to --

11 Q. Yes, ma'am.

12 A. -- you mean?

13 Q. Who was it physically delivered to?

14 A. It was more than one occasion.

15 Q. Okay. On the first occasion?

16 A. I don't recall each occasion exactly. But usually Ada
17 Johnson --

18 Q. Okay. Do you have any --

19 A. -- received the money.

20 Q. -- specific recollection of receiving any of these funds?

21 A. I don't recall.

22 Q. Okay. So, you have no personal recollection, as you sit
23 here, of actually receiving money directly from Mr. Solomon for
24 this purpose that you've testified about the agreement?

25 A. Into my hands personally, I do not recall.

1 Q. Okay. And pardon me for appearing to quibble with your
2 answer, is your answer I don't recall, that could have happened
3 or you no longer remember, or you do not have any recollection
4 that Mr. Solomon delivered money to you?

5 A. I do not recall if he delivered money specifically to me.

6 Q. Okay.

7 A. I don't recall from 2004.

8 Q. That's fair. So, it could have happened, but as you sit here
9 today you don't have any recollection of it. Is that fair?

10 A. That's fair.

11 Q. Okay.

12 A. I do not recall.

13 Q. Did you ever witness Mr. Solomon make physical delivery of
14 this investment or an installment to Ada Johnson or anyone else?

15 A. Yes, sir.

16 Q. When was that?

17 A. In 2004.

18 Q. Okay. Was that more than one occasion, ma'am?

19 A. Yes, sir.

20 Q. How many?

21 A. I do not know exactly how many. I don't know.

22 Q. Would it be less than five?

23 A. I do not remember.

24 Q. Less than 20, just to give the Court and myself a ballpark?

25 A. Probably less than 20.

1 Q. Did you, or anyone to your knowledge, give Mr. Solomon a
2 receipt for any of these payments, his investment in your clinic?

3 A. Not to my -- I do not know, no. Not to my knowledge, I don't
4 know.

5 Q. Okay. Did you personally?

6 A. No, sir.

7 Q. Okay. So, to your knowledge no one else associated with your
8 clinic gave Mr. Solomon a receipt for the monies that he was
9 investing?

10 A. Not to my knowledge.

11 Q. That's fair. Do you know how South Texas Wellness Center
12 accounted on its books and records for these monies that Mr.
13 Solomon invested?

14 A. I do not know.

15 Q. Do you know how South Texas Wellness Center treated these
16 monies for purposes of any state or federal tax obligations?

17 A. I do not know.

18 Q. Do you have a written, or do you know if there exists a
19 written memorialization of the agreement that you discussed on
20 direct testimony, that is, the percentage breakdown for various
21 services the clinic was to provide?

22 A. Not exactly. The percentages, just a rough guesstimation.
23 It would just be guessing.

24 Q. Was that ever reduced to writing, ma'am?

25 A. Was it written down?

1 Q. Yes, ma'am.

2 A. I do not remember.

3 Q. Fair enough. If it was, do you recall ever seeing it?

4 A. I don't recall.

5 Q. Fair enough.

6 A. Uh-huh.

7 Q. Let me ask you, turning the subject, the last bit of my
8 inquiry, the Rob and Jackie you speak of, are they husband and
9 wife?

10 A. Yes, sir.

11 Q. What is their last name?

12 A. I think Williams. I'm not for sure.

13 Q. And how is it that you know Mr. and Ms. Rob and Jackie
14 Williams?

15 A. Ada Johnson met them one day while out marketing the clinics.

16 Q. Did you become friends with this gentleman and this lady, Mr.
17 Rob and Jackie Williams?

18 A. Friend?

19 Q. How would you characterize the relationship?

20 A. Business professional.

21 Q. Okay. And is was through that business professional's
22 relationship that they introduced Mr. Solomon --

23 A. Yeah.

24 Q. -- to you and Mrs. Ada Johnson?

25 A. Yes, sir.

1 Q. Okay. Mr. Bannwart, to your knowledge, he was business
2 attorney for Ascensia or for Mr. Solomon?

3 A. I didn't know whose attorney he was. We met him per personal
4 injury.

5 Q. And that was through the introduction from Rob and Jackie?

6 A. Yes, sir.

7 Q. So, based on your -- well, let me ask you. When did you
8 originally meet Mr. Solomon?

9 A. In 2004.

10 Q. Okay. From 2004 through today, did you learn that Mr.
11 Bannwart had been Mr. Solomon's business lawyer, for lack of a
12 better word?

13 A. I knew that he was his -- I didn't know in what capacity,
14 like business attorney or personal attorney.

15 Q. That's fair. And certainly with relation to the South Texas
16 Wellness Center and Mr. Solomon's investment, --

17 A. Yes.

18 Q. -- he was acting as a business attorney?

19 A. I do not know.

20 Q. Well, that was a business that you and Mr. Solomon were
21 contemplating entering into?

22 A. Yes.

23 Q. And Mr. Bannwart was handling the transaction, not only for
24 you, but for -- the contemplated transaction, for you and Mr.
25 Solomon, right?

1 A. That part is unclear, because the person who initially wrote
2 up everything was Philip --

3 Q. Parker.

4 A. That's the person who initially wrote up everything.

5 Q. Okay. And do you recall how Mr. Bannwart became involved?
6 Was that your suggestion? Was that someone else's suggestion
7 that he help you all?

8 A. It was not my suggestion. I don't exactly recall who
9 suggested it, but it was not my suggestion.

10 Q. Fair enough. At the meeting you described in 2004 --

11 A. Uh-huh.

12 Q. -- at Mr. Bannwart's office.

13 A. Yes.

14 Q. Let me make sure I've got the roll call correct. There was
15 Mr. Solomon and Mr. Johnson? Or just Mr. Solomon on behalf of
16 Ascensia or --

17 A. Just Mr. Solomon and Philip.

18 Q. Okay. Ms. Ada Johnson?

19 A. Yes.

20 Q. Yourself?

21 A. Yes.

22 Q. And Mr. Bannwart?

23 A. Yes.

24 Q. Okay. Do you recall anyone else being at the meeting or you
25 think that's it?

1 A. I think that's all.

2 Q. And after that meeting, through some misgivings that either
3 you or your mother or your -- that you shared with your mother,
4 you all decided you didn't want to enter into that agreement?

5 A. Yes.

6 Q. Is that a fair statement?

7 A. Yes.

8 Q. In your dealings with Mr. Solomon and with Mr. Bannwart,
9 there was never a feeling on your part that Mr. Bannwart was
10 doing anything improper, untoward on behalf of Mr. Solomon, was
11 there?

12 A. We did not deal with him on that. It was only one meeting in
13 that office.

14 Q. Okay. And based on what Mr. Bannwart, the service that he
15 was performing for you and Mr. Solomon, there was nothing
16 suggested, or implied even, that he was doing something improper,
17 was there?

18 A. We had no agreement at the time.

19 Q. So, there -- you didn't see any improper --

20 A. Not at the time, no.

21 Q. Fair enough. Thank you very much for you time, Ms. Johnson.

22 MR. LEWIS: Your Honor, I'll pass the witness.

23 THE COURT: All right. Mr. Bannwart.

24 MR. BANNWART: Yes, ma'am.

25 CROSS-EXAMINATION CONTINUES

1 BY MR. BANNWART:

2 Q. Ms. Johnson, you indicated that you didn't believe or notice
3 anything improper on my part at the time. Was there some time
4 that you did believe that I acted improperly with regard to the
5 business relationship that you were pursuing with Mr. Solomon?

6 A. No.

7 Q. At that meeting that you described in my office, do you
8 recall where that office was located?

9 A. I do not know the physical address.

10 Q. Can you give me a reasonable description of the part of town
11 in Houston?

12 A. Off of 59 and Kirby area.

13 Q. Okay. And do you recall, and you may have already been asked
14 this, but do you recall the approximate date of that meeting?

15 A. Not the date, no.

16 Q. Okay. Had you and I met, ever met prior to that day in
17 person?

18 A. I don't recall if it were prior or after.

19 Q. Okay. Have you and I met more than on that one occasion?

20 A. Yes, sir.

21 Q. Okay. What was the other circumstances that you and I had
22 met?

23 A. In regards to personal injury.

24 Q. Okay. Nothing in regard to what is the subject matter of
25 this proceeding here today or any of the charges that have been

1 brought against Mr. Solomon or Mr. Johnson?

2 A. Say that one more time.

3 Q. You and I have never discussed the Government's case against
4 Mr. Johnson or Mr. Solomon?

5 A. Yes. That's correct. We have never.

6 Q. And, in fact, you and I haven't spoken for probably four or
7 five years, right?

8 A. That's accurate.

9 Q. And were Mr. Johnson or Mr. Solomon ever present during any
10 of our other discussions?

11 A. No.

12 Q. At the meeting that you described in my office, was it your
13 understanding that I was acting as your lawyer in that meeting?

14 A. No.

15 Q. Was it your understanding that I was acting as Ada Johnson's
16 lawyer in that meeting?

17 A. No.

18 Q. Was it your understanding that I was acting as Troy Solomon's
19 lawyer in that meeting?

20 A. No.

21 Q. Did you have an understanding as to why I was present in that
22 meeting or why it was being held in my office?

23 A. No, I did not.

24 Q. At some point do you recall the parties having asked me to
25 draft documents relative to a business agreement between you and

1 Mr. Solomon?

2 A. I do not recall because Phil Parker, Philip Parker had
3 already drafted something up.

4 Q. And who is Philip Parker?

5 A. We met Philip Parker through Troy Solomon. He was the
6 individual actually managing the pharmacy up front at the time.

7 Q. Okay. And this was during 2004?

8 A. Yes, sir.

9 Q. Was there a time when Philip Parker stopped managing the
10 pharmacy?

11 A. Yes. I guess. We know he left. He was no longer there.

12 Q. Okay. And when, approximately, was that, if you recall?

13 A. I do not recall.

14 Q. Okay. Would it possibly have been in late 2005?

15 A. I do not recall. I don't.

16 Q. When did South Texas Wellness Center first open its doors in
17 -- at 3003 Southwest -- or excuse me, South Loop West in Houston?

18 A. We actually opened our doors February or March of 2004.

19 Q. Okay. Do you recall when it was that Ascensia opened its
20 doors at 3003 South Loop West?

21 A. I don't recall the month, no.

22 Q. Okay. Do you recall if at the time we had our discussion or
23 our meeting in 2004, if Mr. Solomon was employed in any fashion?

24 A. I don't recall.

25 Q. Did you have an understanding at that time what Mr. Solomon

1 did for a living?

2 A. At the time, yes.

3 Q. And what was your understanding?

4 A. My understanding at the time was that he was a pharmaceutical
5 rep.

6 Q. Okay. Do you know for whom he worked at that time?

7 A. I do not recall.

8 Q. And is it your understanding that he was employed full-time
9 as a pharmaceutical rep at that time?

10 A. At the time that was my understanding.

11 Q. Okay. And it was also your understanding that Philip Parker
12 is the one who ran Ascensia Pharmacy, is that right?

13 A. At that time. Yes, sir.

14 Q. Okay. Is there anything about the meeting in my office that
15 you believe that either you or your mother, Ada Johnson, or Troy
16 Solomon could not testify about?

17 A. I don't recall.

18 Q. I'm going to ask it this way.

19 A. Okay.

20 Q. Do you believe that between your testimony, the testimony of
21 your mother, Ada Johnson, and Troy Solomon, every fact or every
22 issue discussed in that meeting could be pretty well and
23 thoroughly covered?

24 MR. BOHLING: I would object on two grounds. It calls
25 for a legal conclusion and it's speculative.

1 THE COURT: Sustained.

2 BY MR. BANNWART:

3 Q. Did there come a time when you spoke with somebody from the
4 U.S. Attorney's Office about today's testimony?

5 A. Yes, sir.

6 Q. When was the first time you did that?

7 A. When was the first time I did?

8 Q. When was the first time you discussed today's hearing with
9 someone from the Government's office?

10 A. Discussed, please define discussed as --

11 Q. Had a conversation with.

12 A. In regards to coming here?

13 Q. Yes, ma'am.

14 A. 2008.

15 Q. Okay. Do you recall when in 2008?

16 A. I don't remember when.

17 Q. Okay. And what was the nature of that discussion?

18 A. That we may have to testify here.

19 Q. Okay. About what?

20 A. The dealings with Troy Solomon, how we knew Troy Solomon.

21 Q. Okay. And how many conversations have you had with someone
22 from the Government's office regarding that testimony?

23 A. How many conversations?

24 Q. Yes, ma'am.

25 A. I don't recall the number.

1 Q. More than five?

2 A. My attorneys handled all of the dealings actually.

3 Q. Okay. Fair enough. When did you hire an attorney relative
4 to this proceeding?

5 A. I do not -- I don't recall exactly when -- 2008.

6 Q. Okay. Early in 2008 or late in 2008?

7 A. I do not remember.

8 Q. Okay. And when is your --

9 A. Maybe mid to the late 2008. I don't recall exactly.

10 Q. Summer, maybe, of 2008. Is that fair?

11 A. I really do not recall.

12 Q. And what is your attorney's name?

13 A. Attorney Marshall Taheri.

14 Q. And how did you find him?

15 A. Through the website, National Bar Association.

16 Q. And why was it that you believed you needed to hire an
17 attorney relative to these proceedings?

18 A. Because that's what I've always heard, you need legal
19 representation.

20 Q. Well, you had a discussion with the Government or the
21 investigators on behalf of the Government, someone from the DEA,
22 the diversion investigators, prior to hiring a lawyer, right?

23 A. Did I have discussion?

24 Q. Yes, ma'am.

25 A. I don't --

1 Q. Were you not interviewed by a diversion investigator prior to
2 hiring a lawyer?

3 A. I don't recall.

4 Q. When you -- wait. Let me re-ask that. Did there come a time
5 when you invoked your right against self-incrimination, as you
6 understand it?

7 A. I don't remember.

8 Q. Do you recall your attorney having invoked that right on your
9 behalf?

10 A. I really, I don't recall. Unt-uh.

11 Q. Do you know why you were given immunity in this case?

12 A. I'm not an attorney, so, no.

13 Q. I'm sorry?

14 A. To make -- I don't understand your question.

15 Q. Why -- what were you given immunity from in this case? Your
16 attorney requested and received immunity for you. I'm asking you
17 what you received immunity from.

18 A. I don't -- maybe, I don't know.

19 Q. Do you believe that you did something wrong relative to Mr.
20 Solomon or Mr. Johnson? Something wrong or illegal?

21 A. No, sir.

22 Q. Then why did you need immunity to come testify here today?

23 A. My attorney handled all of that.

24 Q. So, it's your belief that none of your involvements with Mr.
25 Solomon were illegal in any way?

1 A. That's accurate.

2 Q. And did you have any separate dealings with Mr. Johnson?

3 A. Mr. Johnson who?

4 Q. Delmon Johnson. Do you know who Delmon Johnson is?

5 A. Would I have separate business dealings with Mr. Johnson?

6 Q. Yes, ma'am.

7 A. No, sir.

8 Q. Okay. Do you believe that -- well, did you have any other
9 kind of dealings with Mr. Johnson?

10 A. No. No, sir.

11 Q. Okay. Do you believe that any of your activities or
12 discussions or dealings with Mr. Johnson created any -- or were
13 illegal in any way?

14 A. No, sir.

15 Q. Do you have any personal knowledge that Mr. Solomon or Mr.
16 Johnson did anything illegal with regard to Ascensia Pharmacy or
17 South Texas Wellness Center?

18 A. Repeat the question.

19 Q. Do you have any knowledge that Mr. Solomon or Mr. Johnson did
20 anything illegal with regard South Texas Wellness Center, or that
21 you believed is illegal?

22 A. That I believed is illegal.

23 Q. Correct.

24 A. Including why I'm here today?

25 Q. Yes, ma'am.

1 A. Or before?

2 Q. At any time.

3 A. Presently, I'm assuming yes, because I wouldn't be here. I
4 don't know.

5 Q. I understand that's your assumption.

6 A. I mean -- please. Thank you.

7 Q. Do you believe that Troy Solomon did anything illegal at
8 South Texas Wellness Center or Ascensia Nutritional Pharmacy
9 during 2004 or 2005? Do you have any personal knowledge of any
10 illegal conduct on his behalf?

11 A. Personal?

12 MR. BOHLING: I'm going to object to the first
13 formulation of the question.

14 THE WITNESS: I don't under --

15 MR. BOHLING: The "believe." I won't object to the
16 second, but I think it needs to be made clear which one is being
17 asked.

18 THE COURT: Why don't you re-ask it so it's clear what
19 you're asking her.

20 MR. BANNWART: Sure.

21 BY MR. BANNWART:

22 Q. Do you have any personal knowledge that Troy Solomon was
23 engaged in illegal activity at South Texas Wellness Center during
24 2004-2005?

25 A. I had no personal knowledge, no.

1 Q. Do you have any personal knowledge that Delmon Johnson was
2 involved in illegal activity at South Texas Wellness Center
3 during 2004 and 2005?

4 A. I had no personal knowledge.

5 Q. Do you have any personal knowledge that Troy Solomon was
6 engaged in any illegal activity at Ascensia Nutritional Pharmacy
7 during 2004 or 2005?

8 A. I would not know.

9 Q. Do you have any personal knowledge that Delmon Johnson was
10 engaged in any illegal activities at Ascensia Nutritional
11 Pharmacy during 2004 and 2005?

12 A. I would not know.

13 Q. Am I to understand that the nature of your business
14 relationship with Mr. Solomon was such that he provided you and
15 your mother and the South Texas Wellness Center with roughly
16 \$25,000 in exchange for a percentage of revenue?

17 A. Yes.

18 Q. Is South Texas Wellness Center currently incorporated?

19 A. Incorporated?

20 Q. Yes.

21 A. No.

22 Q. Does South Texas Wellness Center operate as an independent
23 legal entity of any kind?

24 A. Yes. It's --

25 Q. And what is it?

1 A. An LLC.

2 Q. And when was that LLC created?

3 A. I do not recall the exact --

4 Q. Would it be fair to say that it was after your business
5 dealings with Mr. Solomon ended?

6 A. I don't know. No.

7 Q. Okay. Do you recall, relative to your business dealings with
8 Mr. Solomon, when that LLC was created?

9 A. I do not recall the exact year, but either 2003 or 2004.

10 Q. Okay. Are you familiar with the address of 11906 Chadwell
11 Drive in Houston, Texas?

12 A. Yes.

13 Q. And what is that address?

14 A. My parents' address.

15 Q. Have you ever lived at that address?

16 A. Yes.

17 Q. When was the last time you lived at that address?

18 A. 1993.

19 Q. When was the last time you spoke with Philip Parker?

20 A. A long, long, long time ago. I don't recall.

21 Q. Did you have a friendly relationship with Mr. Parker or was
22 he just someone you saw in the hall?

23 A. Someone I saw in the hall.

24 Q. Would you -- could you describe Mr. Parker for us, what he
25 looks like, his physical appearance?

1 A. Vaguely.

2 Q. Okay. Please do that for me.

3 A. Medium brown skin at the -- color of skin. At the time he
4 wore a -- he was bald, no hair. I guess average height, average
5 build.

6 Q. When you say average height?

7 A. Maybe 5'8", 5'10".

8 Q. Okay.

9 A. And I vaguely remember him having a beard, but I'm not for
10 sure.

11 Q. During 2004 and 2005, would it be safe to say that you would
12 recognize Philip Parker on sight?

13 A. During those days?

14 Q. Yeah.

15 A. During that year?

16 Q. Yes.

17 A. Yes, sir.

18 Q. Would it be fair to say that Philip Parker worked daily at
19 Ascensia Nutritional Pharmacy during that time?

20 A. As I recall, regularly.

21 Q. And I'm not saying that you went over there to check on him.

22 A. Okay.

23 Q. But as to your understanding.

24 A. To my understanding.

25 Q. Yeah. And it would also be your understanding that Troy

1 Solomon did not work there regularly because he had a full-time
2 job?

3 A. To my understanding.

4 Q. Okay. Did you have any type of referral or other arrangement
5 with Philip Parker regarding Ascensia Nutritional Pharmacy or
6 South Texas Wellness Center?

7 MR. BOHLING: At this point, Your Honor, I would object
8 on relevance. I'm a little unclear on where we are with the --
9 in respect to any issue that's relevant to this case.

10 THE COURT: Mr. Bannwart?

11 MR. BOHLING: Or at the hearing.

12 MR. BANNWART: That's fine, Judge. I'll move on.

13 BY MR. BANNWART:

14 Q. Do you know if your tax records reflect Mr. Solomon's payment
15 of \$25,000 or roughly \$25,000 to you or your mother or South
16 Texas Wellness Center?

17 A. I do not know.

18 Q. Do you know if that money would have been incorporated into
19 the business operations of the LLC, the South Texas Wellness
20 Center?

21 A. I don't know.

22 Q. Who would know that information?

23 A. Ada Johnson and/or our CPA.

24 Q. And who is your CPA?

25 A. Charles Ball.

1 Q. And do you know his phone number or address offhand?

2 A. No, sir.

3 MR. BOHLING: Object.

4 BY MR. BANNWART:

5 Q. Do you know -- do you have any personal knowledge regarding
6 the source of the money that Mr. Solomon provided to you?

7 MR. BOHLING: Objection. Again, relevance to the
8 hearing issues, whatever, the issues within this hearing.

9 MR. BANNWART: It's been discussed numerous times,
10 Judge. I think I should be at least free to ask that one
11 question, whether or not she has any knowledge regarding the
12 source of the funds. It's one of the implications that the
13 Government is trying to use against my client -- or clients.

14 THE COURT: Well, we're not here, of course, for
15 discussion about --

16 MR. BANNWART: Sure.

17 THE COURT: -- the case against your clients. We're
18 here, hopefully on the limited issue of the conflict of interest.
19 So, I guess, I'm interested in how it relates --

20 MR. BANNWART: My --

21 THE COURT: -- to that.

22 MR. BANNWART: My follow-up question was going to be
23 whether or not it was discussed in our meeting, Judge. I guess I
24 could ask that question first.

25 THE COURT: All right. Why don't you start with that.

1 MR. BANNWART: Okay.

2 BY MR. BANNWART:

3 Q. Was the payment of any funds discussed in our meeting or in
4 the meeting at my office?

5 A. The payment of funds?

6 Q. From Mr. Solomon to you or your mother?

7 A. I don't recall.

8 Q. Okay. Do you recall if any specific amount was discussed?

9 A. I do not. I don't recall.

10 Q. Do you recall when the first time was that you and Mr.
11 Solomon discussed the amount of any payments or investments in
12 the South Texas Wellness Center?

13 A. In 2004.

14 Q. Okay. Do you know if it was before or after the meeting in
15 my office?

16 A. I do not. I don't remember.

17 Q. Do you know if any of those discussions involved Delmon
18 Johnson.

19 A. Delmon Johnson?

20 Q. Yes.

21 A. Not to my knowledge.

22 Q. When I say Delmon Johnson, a couple of times you've kind of
23 made a face. Do you know who I'm referring to when I say Delmon
24 Johnson?

25 A. I do know. But he was never around when we dealt with Troy

1 Solomon.

2 Q. Okay.

3 A. It was strictly Mr. Solomon, --

4 Q. Okay. When did you --

5 A. -- that I can recall.

6 Q. When did you deal with Mr. Johnson? Or how would you deal
7 with him, if at all?

8 MR. BOHLING: Objection, relevance.

9 THE COURT: Overruled.

10 BY MR. BANNWART:

11 Q. Under what circumstances would you interact with Mr. Johnson?

12 A. I would say hello if I saw him in the hallway. We did not
13 interact personally.

14 Q. Okay. So, he had nothing to do with South Texas Wellness
15 Center?

16 A. No, sir.

17 Q. Okay. And did you have an understanding about where he was
18 employed at the time?

19 A. Yes.

20 Q. And where was that?

21 A. With the Nutritional Pharmacy.

22 Q. Okay. Do you have any personal knowledge regarding the
23 business structure or relationship of the owners of Ascensia
24 Nutritional Pharmacy?

25 A. No, sir.

1 MR. BANNWART: Pass the witness, Your Honor.

2 THE COURT: All right.

3 MR. BOHLING: Very briefly, Your Honor.

4 THE COURT: All right.

5 REDIRECT EXAMINATION

6 BY MR. BOHLING:

7 Q. Have you had contact with Mr. Solomon in the year 2009?

8 A. Yes.

9 Q. Any kind of conversation?

10 A. We had contact, yes.

11 Q. Where was that?

12 A. On the elevator.

13 Q. Okay. And where was the elevator?

14 A. At the clinic, at the 3003 building.

15 Q. Are the clinic and the pharmacy still co-located in the same
16 building?

17 A. Yes, sir.

18 Q. And was there any conversation between the two of you at that
19 time?

20 A. Yes, sir. He got on the elevator.

21 Q. Okay. And can you tell us what was said?

22 A. He verbalized to me that he new everything that we were
23 saying, you know, the answers to the questions that we had been
24 asked. And why were we talking or why were they messing with us
25 and we don't know. And did we confuse him with another

1 individual we were working with who has the same first name. And
2 he wished we hadn't mentioned that he invested money into the
3 company and maybe Ada Johnson mixed up the names because she was
4 a little old and, you know, maybe she could go back and say it a
5 certain way. And he liked the way that another individual
6 answered the questions when he came up here to speak to you guys
7 -- when she came up here to speak to you guys.

8 Q. Okay. Now, when you say "he," who are you referring to?

9 A. Troy Solomon.

10 Q. Okay. Was there anybody else in the elevator besides you and
11 Mr. Solomon?

12 A. It was the two of us.

13 Q. Okay. Did he say anything else to you while you were in the
14 elevator?

15 A. He just recalled everything that, you know, we had said to
16 you guys when you asked us questions.

17 Q. Did you say anything in response to his comments?

18 A. I think I told him we would be truthful, you know, we're
19 going to answer the questions.

20 Q. Did he make any response to that comment?

21 A. He had already -- I don't know if it was before or after
22 where he insinuated as if, you know, Ada Johnson was older so
23 maybe she didn't remember exactly how, you know, things
24 transpired.

25 Q. Did any additional conversation take place, either by you or

1 by him at this time?

2 A. After that or to this point?

3 Q. No. I mean, other than what you've told us about, the
4 conversation in the elevator, was there any additional
5 conversation?

6 A. No, sir.

7 Q. Okay. What happened at that point?

8 A. I was upset and I just -- I called my husband and I obviously
9 called my mother to let her know, you know, what had happened on
10 the elevator and what was said. And, you know, how could he know
11 everything. Just little questions that you ask when you're like,
12 what is going on.

13 Q. Okay. Do you recall that Mr. Rhodes, Ms. Waterson and I came
14 down to Houston in the fall of 2008 --

15 A. Yes.

16 Q. -- and talked to you? Okay.

17 A. In 2008, yes.

18 Q. And at that time Mr. Taheri was your attorney?

19 A. Yes, sir.

20 Q. Okay. Now, with regard to this hearing, have you and I had a
21 chance to talk about this specific hearing anytime before this
22 morning?

23 A. No, sir.

24 Q. Okay. Thank you.

25 MR. BOHLING: That's all I have, Your Honor.

1 MR. LEWIS: Very briefly, Your Honor, if the Court would
2 indulge me.

3 RECCROSS EXAMINATION

4 BY MR. LEWIS:

5 Q. Ma'am, I missed the date of this elevator conversation you
6 were talking about. When was that?

7 A. March the 9th of this year.

8 Q. So, a little over a month or maybe a month and a half ago?

9 A. Yes.

10 Q. And you shared that conversation with the Government?

11 A. I told my husband and my mother, and I did let my attorney
12 know.

13 Q. Okay. Well, do you have any reason to know why the
14 Government knows about that conversation?

15 A. My attorney.

16 Q. Okay. So, you have never personally shared the substance of
17 that conversation with anyone other than your lawyer, your
18 husband and your mother?

19 A. Yes, sir.

20 Q. All right. Thank you, ma'am.

21 MR. LEWIS: Thank you, Your Honor. Pass the witness.

22 THE COURT: All right. Anything further from this
23 witness?

24 MR. BANNWART: No, Your Honor.

25 THE COURT: All right. Thank you very much.

1 THE WITNESS: Thank you.

2 THE COURT: You can just leave that there.

3 THE WITNESS: Okay.

4 MR. BOHLING: The United States calls Cynthia Martin.

5 THE COURT: All right. Come forward and she'll swear
6 you I.

7 CYNTHIA SUE MARTIN, GOVERNMENT'S WITNESS, SWORN

8 DIRECT EXAMINATION

9 BY MR. BOHLING:

10 Q. Please state your name and spell your first and last name.

11 A. Cynthia Sue Martin. And it's C-Y-N-T-H-I-A. Martin is M-A-
12 R-T-I-N.

13 Q. What city do you live in?

14 A. Belton, Missouri.

15 Q. How long have you lived in this area?

16 A. Since 1965.

17 Q. How are you employed currently?

18 A. Sales position.

19 Q. Do you know -- well, first let me ask you. You were charged
20 as a defendant in this case, correct?

21 A. Yes, sir.

22 Q. And you have entered a guilty plea, correct?

23 A. Yes.

24 Q. And you're awaiting sentencing.

25 A. Yes.

1 Q. And you have a cooperation agreement with the United States.

2 A. Yes.

3 Q. Do you know a person named Troy Solomon?

4 A. Yes.

5 Q. Do you remember approximately when you first met Mr. Solomon?

6 A. Probably 2000, 2001.

7 Q. How were you employed at that time?

8 A. I worked for a company by the name of CIT. It was a finance
9 company.

10 Q. Where did you meet Mr. Solomon?

11 A. We actually met on the phone. I had a position with a
12 company with a -- as an inside sales rep, and he worked for a
13 finance or a mobile home mortgage -- okay. Let me see. A mobile
14 home dealership, I believe, where he would acquire our company
15 for the financing for the people that would come and want to buy
16 manufactured housing from them.

17 Q. Did there come a time when you met Mr. Solomon in person?

18 A. Yes.

19 Q. Where was that?

20 A. Dallas, Texas.

21 Q. And do you remember approximately when?

22 A. Probably May of 2002.

23 Q. Why were you in Dallas at that time?

24 A. I was -- I had gone to work for a company by the name of
25 Countrywide Home Loans, and it was at a training class.

1 Q. And do you know, if you know, why was Mr. Solomon in Dallas?

2 A. He came there to see me.

3 Q. Okay. Starting around that time and going forward, did you
4 have a personal relationship with Mr. Solomon?

5 A. Yes.

6 Q. Okay. And would the two of you meet each other in different
7 cities from time to time?

8 A. Yes.

9 Q. Okay. And do you see Mr. Solomon in the courtroom here
10 today?

11 A. Yes.

12 Q. And would you please point him out for us by his location?

13 A. The gentleman in the orange tie.

14 MR. BOHLING: May the record reflect the identification
15 of Mr. Solomon?

16 THE COURT: Yes.

17 BY MR. BOHLING:

18 Q. Now, at some point did your personal relationship end with
19 Mr. Solomon?

20 A. Yes.

21 Q. Okay. Do you remember approximately when that was?

22 A. Probably 2004.

23 Q. Okay. After your personal relationship ended, did there come
24 a time when Mr. Solomon called you on the telephone to make a
25 request?

1 A. Even though I didn't travel back and forth to see him we
2 still became -- we were still friends. We still talked on the
3 phone. But as far as traveling and seeing each other, that part
4 of the relationship ended.

5 Q. Okay. So, you would talk to each other on the phone from
6 time to time even after, for lack of a better word, the romantic
7 relationship ended?

8 A. Yes.

9 Q. Okay. And directing your attention to 2004, did there come a
10 time when he had asked you to assist him in locating a pharmacy?

11 A. He asked -- he knew that I had worked at a pharmacy in the
12 past. And he asked if I still had relationships with any
13 independent pharmacist that might be interested in filling
14 prescriptions for people of notoriety that wanted their private
15 matters kept private. And I said I knew a couple of pharmacists.
16 I would, you know, see if anybody was interested.

17 Q. And at some point were you able to identify a pharmacist that
18 you set up with Mr. Solomon?

19 A. I made an introduction with a pharmacist in Belton, Missouri,
20 to Mr. Solomon.

21 Q. And that was Lynn Rostie?

22 A. Yes.

23 Q. Okay. And after that did you receive something in the mail
24 from Mr. Solomon?

25 A. When they started doing business together?

1 Q. Yes. Yes, ma'am.

2 A. Yes.

3 Q. What did you receive?

4 A. Funds to pay for the prescriptions that Lynn had filled.

5 Q. And were those funds in cash?

6 A. Yes.

7 Q. And I'm trying to kind of get through some of this
8 introductory material, but it would be fair to say that over the
9 course of time you received cash in the mail that you then
10 delivered to Ms. Rostie at her pharmacy?

11 A. Yes.

12 Q. Okay. So, I'll fast forward then to 2006. Do you recall in
13 2006 that you had acquired legal representation, the United
14 States Attorney's Office had asked you to come to the office for
15 what's called a proffer interview?

16 A. Yes.

17 Q. Okay. And do you remember approximately when that happened,
18 the proffer interview?

19 A. June of '06.

20 Q. Do you recall it being July perhaps?

21 A. I mean June or July of '06.

22 Q. Okay. Now, close in time to the time that the proffer
23 interview was supposed to happen, did you call Mr. Solomon on the
24 phone?

25 A. Yes, I did.

1 Q. Okay. Why did you do that?

2 A. Because I wanted to know what was going on. I didn't know at
3 that time that there was a situation and I wanted to know what
4 was going on, what the proffer meant. I didn't understand what
5 that meant.

6 Q. And what did Mr. Solomon say?

7 A. He told that it was no big deal, that it was going to be just
8 fine, but he had somebody he wanted me to talk to and that that
9 person would be able to reassure me and answer any questions I
10 might have.

11 Q. Did Mr. Solomon call you back at some point shortly after
12 that conversation?

13 A. Yes.

14 Q. Okay. And do you recall that as being the evening before the
15 proffer interview?

16 A. Yes.

17 Q. Do you remember approximately what time of night that call
18 came through?

19 A. Seven, eight o'clock in the evening.

20 Q. Okay. Who was on the other end of the phone during that
21 phone call?

22 A. The person that he introduced was -- he referred to him as
23 "The Judge."

24 Q. And before this time had you ever met a person called "The
25 Judge" who was associated with Troy?

1 A. No.

2 Q. Okay. Had he ever mentioned to you a person with the
3 nickname "The Judge"?

4 A. No.

5 Q. Did The Judge speak during this telephone conversation?

6 A. Yes.

7 Q. Okay. During the phone call, do you know whether Troy
8 Solomon and the other person were together or separated, you
9 know, as -- with being on a conference call?

10 A. I'm not sure.

11 Q. Okay.

12 A. I'm not sure.

13 Q. Did it appear to you that all three parties to the
14 conversation could hear everything was being said --

15 A. Yes.

16 Q. -- by the other people?

17 A. Yes.

18 Q. Okay. Can you describe your impression of The Judge's voice?

19 A. I felt like he was probably a white gentleman, probably late
20 40s, early 50s. He had an accent, not as fast as a North
21 Carolina accent, but Oklahoma, Texas wang to his voice.

22 Q. Did he talk about legal matters?

23 A. He said that the proffer was no big deal. You know, just
24 basically tell them that I made an introduction and that was all
25 I needed to tell them, that it was no big deal.

1 Q. Now, this is The Judge who made this statement?

2 A. Yes.

3 Q. Okay. Did he make any other statement about what your
4 knowledge of the situation was, what you should say?

5 A. That was the main thing that he kept saying, was just tell
6 them that you made an introduction. Don't worry about it, it's
7 no big deal. You know, the only thing you did was make an
8 introduction.

9 Q. Was the phrase that "you didn't know anything else" ever
10 used? Meaning you, Cynthia, didn't know anything else?

11 A. Just that he basically -- all he said was, you know, that it
12 was no big deal and I made an introduction and that was the only
13 thing I was supposed to really say that, you know, I didn't know
14 anything else. That was --

15 Q. What about the money that you received in the mail? Was that
16 discussed during this conversation?

17 A. No.

18 Q. Okay. Did Mr. Solomon say anything during this conversation?

19 A. He just said that the proffer was no big deal and I -- just
20 to be sure that I just keep reiterating that I, you know, made an
21 introduction and that was all that I did. Toward the end of the
22 conversation he got a little agitated. You know, just say that
23 and it'll be fine.

24 Q. Did you ask them what you were supposed to say about the
25 money that you had received and delivered to Ms. Rostie?

1 A. I really didn't ask a lot of questions other than I didn't
2 understand what the proffer meant. And, you know, what it --
3 just exactly how it was supposed to work, you know, but I didn't
4 ask too many questions. I just -- I mean, because all they
5 wanted me to do was to say that, you know, I just made an
6 introduction. You know, and they made that very clear. They
7 kept going over that, but just say you made the introduction and
8 that was it, so.

9 Q. And you met with, not with me, but with some other agents and
10 AUSAs the next day, right?

11 A. Yes.

12 Q. And did you tell them the full story about what had happened?

13 A. No.

14 Q. And why not?

15 A. I was afraid. I was more afraid of who this person, The
16 Judge, was and the situation in Texas than what was happening
17 here.

18 Q. Do you know of a person named Synethia Franklin?

19 A. I've heard the name before.

20 Q. How have you heard that name?

21 A. Troy would mention that name when we would have conversation.
22 I didn't know Franklin, but Synethia.

23 Q. In what context would Troy mention that name?

24 A. You know, just that she would do things for him or, you know,
25 run errands or whatever.

1 Q. Have you ever actually met Synethia?

2 A. No.

3 MR. BOHLING: That's all I have.

4 CROSS-EXAMINATION

5 BY MR. LEWIS:

6 Q. Good morning, ma'am.

7 A. Good morning.

8 Q. My name is Chip Lewis. I represent Mr. Solomon. I don't
9 think you and I have ever had the pleasure of meeting, have we?

10 A. I don't think so.

11 Q. You're represented by J.R. Hobbs?

12 A. Yes, sir.

13 Q. Let me ask you first, in reference to telephone conversations
14 that you've testified for the Court about this morning, do you
15 recall meeting or hearing about a person by the name of Philip
16 Parker?

17 A. I don't know that name.

18 Q. So, you don't -- do you think --

19 A. I don't recall that name.

20 Q. Okay. What about a gentleman by the name of Lloyd Williams?

21 A. I don't recall that name.

22 Q. Let me turn back to what you were discussing with the
23 prosecutor a moment ago. Your original conversation, for lack of
24 a better word, with the Government would have happened around
25 July 21st of 2006?

1 A. Correct.

2 Q. And did you actually meet with the Government or did you just
3 through your attorney tender your statement, what we call your
4 proffer?

5 A. We met at my attorney's office and both parties were
6 represented there.

7 Q. Okay. And through that process do you know if beforehand Mr.
8 Hobbs, on your behalf, had shared with the Government your
9 perspective on the events that you are charged with?

10 A. I don't know if he did or not.

11 Q. But at that meeting you personally shared with them your
12 knowledge of the events that are covered by this Indictment,
13 correct?

14 A. Yes.

15 Q. Okay. From that day -- was that the first date you had ever
16 met with the Government?

17 A. Yes.

18 Q. From that day forward, how many times have you met with the
19 Government?

20 A. With the Government?

21 Q. Yes, ma'am. And when I say Government, in fairness to you,
22 Ms. Martin, I'm talking about any agents, whether it be Agent
23 Waterson or any other agent acting on behalf of the prosecution
24 team in this case?

25 A. Oh. I don't know, four or five times.

1 Q. Okay. Is that including the initial July 21st of '06 or
2 subsequent?

3 A. That one. That's included, I guess.

4 Q. Okay. So, your best estimate is since July 21st of 2006,
5 you've met with the Government or their representatives at least
6 four or five times?

7 A. I mean, either be it here in court or, yes.

8 Q. Irrespective of the venue, there have been at least four or
9 five meetings?

10 A. Yes, sir.

11 Q. When did you last meet with them?

12 A. In December. No. I'm sorry. We met a few weeks ago with
13 the officials from Houston -- two weeks ago.

14 Q. When you say "officials from Houston," who are you referring
15 to?

16 A. The gentleman from Houston that serves in the same position
17 as Rudy Rhodes does --

18 Q. Okay. So, he --

19 A. -- in Houston.

20 Q. A U.S. Attorney?

21 A. Uh-huh. I can't remember his name right off the --

22 Q. Is it -- does the name Stuart Burns ring a bell?

23 A. I believe that's it.

24 Q. African-American gentleman --

25 A. Yes.

1 Q. -- a little bit shorter than me?

2 A. Yes.

3 Q. Real pleasant guy?

4 A. Yes.

5 Q. Was that here in Kansas City or in Houston?

6 A. Here.

7 Q. What was the purpose of that meeting?

8 A. They were just asking questions along the same lines as all
9 of the rest, you know, --

10 Q. Yes, ma'am.

11 A. -- about this case.

12 Q. Okay. And that's the last time you met in person with
13 anybody related to the Government?

14 A. Yes.

15 Q. Okay. Let me ask you, have there been phone conferences that
16 you've participated in? And when I say conference, I don't mean
17 multiple parties, either you by yourself and one person from the
18 Government --

19 A. No.

20 Q. -- or multiple folks?

21 A. No.

22 Q. No telephone conversations?

23 A. No.

24 Q. When did you discuss your testimony here this morning with
25 the Government last?

1 A. This test -- I met with them beforehand.

2 Q. When?

3 A. Today.

4 Q. Okay. This morning?

5 A. Uh-huh. I had to check in with their office before this
6 proceedings today.

7 Q. Okay. And at that time you spoke with them about the
8 substance of your testimony?

9 A. Yes.

10 Q. How did you learn about the hearing? Did Mr. Hobbs tell you
11 that there would be a hearing?

12 A. Yes.

13 Q. And what I'm driving at and trying to do it in a succinct
14 fashion for the efficiency of the Court is, you didn't have any
15 conversations with them about the substance of your testimony
16 until you got here?

17 A. Right.

18 Q. Okay. And is that -- that meeting this morning with the
19 prosecutors, is that one of the four to five times you've told us
20 about?

21 A. Right.

22 Q. Is that additional?

23 A. Yes.

24 Q. Okay. And you're testifying here this morning pursuant to a
25 cooperation agreement, right?

1 A. Yes.

2 Q. And you understand that your testimony at this proceeding and
3 any others is called for under your cooperation agreement, right?

4 A. Yes, sir.

5 Q. In turn for your testimony you hope that the Government will
6 give you probation?

7 A. I would like that.

8 Q. Okay. That's your hope?

9 A. Yes, sir.

10 MR. BOHLING: I'm going to object to the form of the
11 question since the Government does not give anybody a sentence.

12 THE COURT: Right.

13 MR. BOHLING: So, I'll just put that on record.

14 BY MR. LEWIS:

15 Q. Lastly, Ms. Martin, your phone conversation with Mr. Solomon
16 that you spoke of, Mr. Solomon has never been a threatening
17 person towards you at all, has he?

18 A. Not directly toward me.

19 Q. Okay. He's never threatened you or your family or anyone
20 that you love, has he?

21 A. He made a phone call to me in December telling me that I
22 shouldn't do what I was about to do, don't do what you're going
23 to do. When I was going to come into a plea agreement with the
24 Government, I got a phone call, like three phone calls that
25 afternoon saying don't do that. At one point when Mr. Solomon

1 and I were together in New Orleans, he had a conversation with I
2 thought was his ex-wife and I just saw anger and hostility toward
3 her that scared me.

4 Q. Okay. Let me backtrack for a minute, Ms. Martin. The
5 conversation where you have repeated Mr. Solomon said, "You don't
6 want to do this," he repeated that statement to you, "You don't
7 want to do this" on more than one occasion, right?

8 A. There were three different phone calls that were made that
9 afternoon. And it was stated to me that you don't want to do
10 this.

11 Q. Okay. And when he said, you don't want to do this, he didn't
12 say because I'll harm you or a loved one if you do?

13 A. No. No. I asked who that was and he said, you know who this
14 is. You know, and I didn't have my phone right in front of me,
15 you know, but when I did get it the number was unknown. You
16 know, but I recognized the voice.

17 Q. So, once you talked to him you knew it was Mr. Solomon you
18 were speaking with, right?

19 A. Yes, sir.

20 Q. And you knew it was Mr. Solomon who said, "You don't want to
21 do this," right?

22 A. Right.

23 Q. Surrounding the "You don't want to do this" comment, there
24 were no insinuations or statements on Mr. Solomon's behalf about
25 why you don't want to do this?

1 A. No.

2 Q. Okay. So, any of the fearfulness that you talked about in
3 your answer to the prosecutor's question was something that, in
4 your defense, you derived from the conversation, right?

5 A. The tone of voice and the demeanor led me to believe that I,
6 you know, I -- I was afraid.

7 Q. It was nothing that Mr. Solomon said to you that made you
8 afraid, that was just your interpretation, right?

9 A. The tone of voice and, yes, sir.

10 Q. Through the demeanor you heard on the phone and the
11 statements made you took the situation to be one that made you
12 apprehensive or fearful, right?

13 A. Absolutely.

14 Q. But in fairness, there was nothing that Mr. Solomon said to
15 you, either contextually or directly, that he in any way
16 threatened you and your family?

17 A. I felt threatened. For a phone call to come the day before
18 I'm to enter into a plea agreement, for a phone call to come that
19 I hadn't talked to him months, yeah, I was in fear.

20 Q. Okay. And what I'm driving at, Ms. Martin, is there's
21 nothing about his statements that were threatening. That your
22 interpretation.

23 A. He did not say, I'm going to hurt you. I'm gonna, you know,
24 hurt your family. He did not say that.

25 Q. And he didn't imply that?

1 A. The tone of voice led me to believe that's, you know, I was
2 afraid.

3 Q. Okay. So, from the tone of voice, you drew something to be
4 fearful about. But from his actual words there was no threat,
5 direct or implied?

6 A. He did not -- he didn't state, you know, I'm going to hurt
7 you. No, he never said that.

8 Q. Nor did he, from his words, imply that?

9 A. It was, no. He didn't -- in his words he did not state that.

10 Q. Nor did he imply that from his words?

11 A. I would say the tone of his voice he maybe wanted me to feel
12 that way.

13 Q. The actual words spoken, there was no implication of a harm
14 to you or your family?

15 A. No.

16 Q. Thank you, Ms. Martin.

17 MR. LEWIS: Your Honor, I'll pass the witness.

18 MR. BANNWART: A few questions, Your Honor.

19 THE COURT: All right.

20 CROSS-EXAMINATION CONTINUES

21 BY MR. BANNWART:

22 Q. Ms. Martin, I'd like to talk to you a little bit about the
23 person who you identified as The Judge. How many conversations
24 did you have with that person?

25 A. One.

1 Q. And could you tell us again when that was?

2 A. The evening before my proffer.

3 Q. In what year?

4 A. '06.

5 Q. Okay. Now, in that conversation, or let me ask you this.

6 How long do you believe that conversation lasted? What's your
7 recollection?

8 A. I don't know. Fifteen minutes.

9 Q. All right. And do you know who I am?

10 A. I suppose you're one of Mr. Solomon's attorneys.

11 Q. Do you know my name?

12 A. You didn't give it to me.

13 Q. I understand that. I'm asking you --

14 A. No. I don't know your name, sir.

15 Q. Okay. Have you and I ever met before today?

16 A. No, I don't believe so.

17 Q. Have you and I ever spoken before today?

18 A. No, I don't believe so.

19 Q. Okay. Have you ever heard anybody -- well, let me say this.

20 You said that the person who was identified to you as The Judge
21 was late 40s, early 50s, something like that?

22 A. That's just what I kind of surmised from his tone of voice.

23 Q. Okay. Well, do you believe that you would recognize that
24 person's voice again if you heard it again?

25 A. Possibly.

1 Q. Do you believe that it is my voice?

2 A. I don't know.

3 Q. Have you ever heard the name Anthony Bannwart?

4 A. No.

5 Q. Have you ever met Delmon Johnson?

6 A. No.

7 Q. Do you know who he is?

8 A. I know he's one of the people that's named in this lawsuit.

9 Q. Okay. Did you ever have any dealings with Mr. Johnson during
10 2004 or 2005?

11 A. Never talked to him, never seen him.

12 Q. Okay. Do you have any knowledge, any personal knowledge of
13 any illegal activity by Delmon Johnson during 2004, 2005?

14 A. I didn't know the man.

15 Q. Okay. Let me ask you, do you recognize the phone number
16 (281) 705-7019?

17 A. As far as phone numbers go, when you have a cell phone and
18 they're in a phone book.

19 Q. Understood.

20 A. They're in there and if you lose them can you even make a
21 phone call? Probably not.

22 Q. So, would it be safe to say no?

23 A. I don't recognize that number.

24 Q. Okay. I have one other number I want to ask you about.
25 (713) 880-5654. Do you recognize that number?

1 A. No, sir.

2 Q. Do you know what the area codes are for Houston, Texas? I'm
3 sorry. And if you can give me a verbal response to that previous
4 question.

5 A. I'm sorry.

6 Q. The question about whether or not you recognize that phone
7 number.

8 A. I did not recognize that number.

9 Q. Okay. You shook your head and then it occurred to me that that's
10 not going to be sufficient.

11 A. Sorry.

12 Q. Do you know what the area codes are in and around Houston,
13 Texas?

14 A. Some of them.

15 Q. Tell us what you know.

16 A. 281, 972, I believe. My daughter is in Texas, so.

17 Q. Okay. You had testified a little while ago about payments
18 that you received as part of some arrangement for prescriptions?

19 A. Yes.

20 Q. Tell me about your understanding for why you were receiving
21 those payments.

22 A. Those payments came to me so that they could be -- the
23 payments could be made to Lynn for the prescriptions that she was
24 sending to Troy and --

25 Q. Okay. And from -- what is your understanding as to where

1 those payments came from?

2 A. I didn't know where those payments came from. I thought they
3 came from the doctor's office or whatever that they were dealing
4 with.

5 Q. Okay. Do you have any personal knowledge of any illegal
6 conduct by Troy Solomon from back in 2004-2005?

7 A. Other than what has been presented through the court system,
8 I don't know anything else that he's been involved with.

9 Q. Okay. Well, with regard to what we're here for in this case,
10 do you have any personal knowledge? Not what you've been told by
11 the lawyer, or by the Government or something like that. Do you
12 have any personal knowledge of any illegal activity by Troy
13 Solomon during 2004 and 2005?

14 A. When he asked me to introduce him to a pharmacist in
15 Missouri, what he was asking I didn't realize that it was
16 illegal, if it was illegal --

17 Q. And you don't if --

18 A. -- to have --

19 Q. You don't know if it was?

20 A. Right. I don't know. I mean, when I introduced him to Lynn,
21 I mean, I told her to do her due diligence --

22 Q. Uh-huh.

23 A. -- to make sure that she was able to do what he was asking.
24 I know from with working in the pharmacy that you will have
25 clients that are of a certain stature, that they'd want to make

1 sure everything is kept private and confidential. You know, if
2 they're athletes or just prominent business people, so.

3 Q. Sure. And I'm sure you've probably heard of online
4 prescription sales and things like that, too?

5 A. Right.

6 Q. So, as far as you knew there was nothing necessarily illegal
7 about Troy's request -- Mr. Solomon's request?

8 A. I wouldn't have made the connection with him and Lynn if I
9 felt like it was illegal. At that time I didn't see that there
10 was anything illegal and Lynn would do her due diligence as far
11 as Missouri and Kansas merging together.

12 Q. Fair enough. And I may have asked this already, but you
13 don't have any personal knowledge of whether or not Mr. Johnson
14 was involved in any of those dealings, do you?

15 A. I don't know Mr. Johnson.

16 Q. Okay. At the time that you were intro -- well, met Mr.
17 Solomon, he was employed full-time at a mobile home place?

18 A. That was my understanding.

19 Q. Okay. In and around 2004 and 2005, did you have an
20 understanding about where Mr. Solomon was employed?

21 A. I thought he was working for a pharmaceutical company doing
22 durable medical equipment.

23 Q. Okay. And what does durable medical equipment mean to you?

24 A. Like diabetic needs, hospital beds, walkers, oxygen, those
25 types of things.

1 Q. Do you know by whom he was employed in 2004 and 2005?

2 A. I believe it was MP Total Care.

3 Q. Okay. And is it your understanding that was a full-time job?

4 A. I thought it was a full-time job.

5 Q. Do you have any knowledge of Mr. Solomon's involvement or
6 participation with a place called Ascensia Nutritional Pharmacy?

7 A. I did not until this case. I didn't know that he owned a
8 pharmacy --

9 Q. Okay.

10 A. -- or that he was a partner with it or whatever. I did not
11 know he had any --

12 Q. Okay.

13 A. -- involvement with a pharmacy.

14 Q. And to this day you have no personal knowledge of it. You
15 just know what you've been told by other people, is that
16 accurate?

17 A. Right. Absolutely.

18 MR. BANNWART: I'll pass the witness, Your Honor.

19 THE COURT: Mr. Bohling, you may redirect.

20 MR. BOHLING: Yes. I do have just a few questions.

21 REDIRECT EXAMINATION

22 BY MR. BOHLING:

23 Q. As you sit here today would you be able to say whether or not
24 Mr. Bannwart was the person who was on the phone, referred to as
25 The Judge, in 2006?

1 A. I don't believe so.

2 Q. You don't believe so?

3 A. I don't believe so.

4 Q. Okay. And what are the differences between --

5 A. I don't hear that wang, the drawl, if you want to call it
6 that. I don't hear that in his voice like that person had.

7 Q. Okay. That's all I have. Thank you.

8 THE COURT: All right. Anything further from this
9 witness?

10 MR. LEWIS: Nothing from Mr. Solomon.

11 MR. BANNWART: Nothing, Your Honor.

12 THE COURT: All right. Thank you very much. You may
13 step down. How many more witnesses do we have?

14 MR. BOHLING: Two.

15 THE COURT: All right. Why don't we take about a ten-
16 minute break?

17 MR. BANNWART: Thank you, Judge.

18 (Court in Recess from 12:00 p.m. until 12:19 p.m.)

19 THE COURT: All right. You may call your next witness.

20 MR. BOHLING: Lillian Zapata.

21 THE COURT: And let me just say to counsel, I mean, I
22 know there haven't been any objections from either side, but I
23 think both sides need to kind of re-focus on the issues that
24 we're here about. I think there's been a whole of testimony that
25 I haven't objected to, I've been waiting for the lawyers. It's

1 been pretty far afield of --

2 MR. BOHLING: I agree. My --

3 THE COURT: -- what we're supposed to be doing.

4 MR. BOHLING: I have tried to cut it down. My purpose
5 was to give you some context in which to understand some of the
6 facts. But this witness I'll try to do very quickly. And this
7 will be our last witness actually.

8 THE COURT: Okay.

9 MR. BOHLING: We've cut it down by one.

10 THE COURT: Come forward and she'll swear you in.

11 LILLIAN ADRIANA ZAPATA, GOVERNMENT'S WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MR. BOHLING:

14 Q. Please state your name and spell your first and last name.

15 A. Lillian Adriana Zapata. And I'm sorry, you said what?

16 Q. Go ahead and actually spell all three of your names.

17 A. L-I-L-L-I-A-N, A-D-R-I-A-N-A, Z-A-P-A-T-A.

18 Q. In what city do you live?

19 A. In Austin.

20 Q. And before Austin, in what city did you live?

21 A. In Webster.

22 Q. Okay. Is that in the Houston, Texas, area?

23 A. Houston area. Uh-huh.

24 Q. And while you were living in Houston, did you get a job at
25 Ascensia Nutritional Pharmacy?

1 A. Yes.

2 Q. When did you get that job?

3 A. In January 2005, I believe.

4 Q. What was your job title?

5 A. Pharmacy Technician.

6 Q. How long did you work for Ascensia?

7 A. For about eight months.

8 Q. Did you meet a person there named Troy Solomon?

9 A. Yes.

10 Q. And do you see Mr. Solomon in the courtroom today?

11 A. Yes.

12 Q. Okay. Obviously you worked for Ascensia. Was Mr. Solomon
13 also present at the Ascensia Pharmacy while you were working
14 there?

15 A. Yes.

16 Q. Okay. And at some point did you start a personal
17 relationship with Mr. Solomon?

18 A. Yes.

19 Q. Okay. And while you had that personal relationship, do you
20 recall discussing with him a person named Anthony?

21 A. Yes.

22 Q. Okay. And what did Mr. Solomon say about Anthony?

23 A. He stated that if he got ever into any legal trouble that he
24 had a judge by the name of Anthony that could get him out.

25 Q. Did you ever meet an Anthony?

1 A. No.

2 Q. Okay. Do you remember approximately how many times Mr.
3 Solomon mentioned this person?

4 A. Two that I can count on for sure.

5 Q. Okay. And what -- when, approximately, was the first time?

6 A. It was just in a random conversation. And he just said
7 something about having somebody in high superior legal named
8 Anthony. And he made it seem like he was a judge.

9 Q. Is this while you were living in Houston and working for
10 Ascensia?

11 A. Yes.

12 Q. Okay. And then when did the second conversation occur in
13 which Mr. Solomon mentioned Anthony?

14 A. It was in a telephone conversation maybe a week after I had
15 quit, and he said on the telephone that if I ever tried to say
16 anything negative on him or try to get him in trouble, that it
17 wouldn't work because he had that help in legal with Anthony.

18 Q. Okay. And in that conversation did he use the word "judge"?
19 That telephone conversation?

20 A. In that conversation, yes, he did.

21 Q. Okay. Did you have any other conversations with Mr. Solomon
22 about Anthony or a person who he called a judge?

23 A. No.

24 Q. Okay. I'd like to direct your attention to, I guess it would
25 be this year. I think it was February perhaps when you came up

1 to Kansas City. Is that your recollection?

2 A. Yes.

3 Q. Okay. Before you came up to Kansas City to talk to the agent
4 and Mr. Rhoades and myself, did you look at the Internet for some
5 information?

6 A. I did.

7 Q. Why did you do that?

8 A. I just wanted to Google to see how serious I guess this case
9 was and I was able to pull some stuff up.

10 Q. Okay. How did you pull it up?

11 A. I googled Troy Solomon in the search engine.

12 Q. Once you googled Troy Solomon, what did you see in the
13 results list?

14 A. There was lists. And one that I clicked on was a PDF file,
15 and at the end of the actual court document, it was lawyers'
16 names.

17 Q. Okay. And just to be clear, when you saw the results sheet
18 that the Google gives you, you clicked on one of those links,
19 right?

20 A. Correct.

21 Q. And when you clicked on that link then you saw a list of
22 documents in this case, presumably?

23 A. I'm sorry.

24 Q. A list --

25 A. Say that again.

1 Q. Once you clicked on that document you went to a new web page
2 that showed you a list of the documents that had been filed in
3 this criminal case?

4 A. Well, actually, I just clicked on the one that had his name
5 in the little subtitle.

6 Q. Okay.

7 A. And then it opened to a court document, I think, I believe it
8 was like a petition. And at the end of the document was his
9 lawyers' names.

10 Q. Okay. And do you remember what his lawyer's name was?

11 A. Anthony.

12 Q. And did that -- at the time that you saw that, at the time
13 you were reading the document on the Internet, did that then
14 bring to mind the discussions that you'd had with Mr. Solomon?

15 A. Yes.

16 Q. And why did they do that? Why did seeing the name Anthony on
17 the court pleading bring those discussions to mind?

18 A. Just from the stories that he would tell me, all the little
19 things that he would say.

20 Q. Okay. Did you think, when seeing that, that the Anthony on
21 the pleading was the judge that he was referring to?

22 A. I felt that it was, yes.

23 Q. Okay. And then did you tell us about all of this when you
24 came up to see us in Kansas City a few days later?

25 A. Yes.

1 Q. Okay. Thank you. That's all I have.

2 THE COURT: All right. You may cross-examine.

3 CROSS-EXAMINATION

4 BY MR. LEWIS:

5 Q. Good morning, ma'am.

6 A. Good morning.

7 Q. My name is Chip Lewis. I represent Mr. Solomon. I don't
8 think you and I have ever had the pleasure of meeting, have we?

9 A. No.

10 Q. Let me ask you, do you recall the exact date in January of
11 2005, when you started working at Ascensia?

12 A. I don't remember the exact date.

13 Q. Was it closer to New Year's or closer to the end of the year?

14 A. Closer to New Year's.

15 Q. And you said you worked there roughly eight months?

16 A. Yes.

17 Q. Why did you leave?

18 A. Because we had -- Mr. Solomon and I had a falling out and I
19 just felt the business environment was not suitable.

20 Q. Why do you say that?

21 A. Just because of what was going on.

22 Q. And what was that?

23 A. The prescriptions that were being filled.

24 Q. What about the prescriptions being filled at a pharmacy
25 caused you concern?

1 A. Because --

2 MR. BOHLING: Objection. Again, it's irrelevant to the
3 issues in the hearing. I've deliberately tried to get past this
4 so we could get to the main --

5 THE COURT: The focus of his direct was very narrow.

6 MR. LEWIS: I understand, Your Honor. He talked about
7 the relationship with Mr. Solomon. I'm just trying to ferret
8 that out very quickly.

9 THE COURT: Well, you can ask questions about the
10 personal relationship and the impact it had. But the objection
11 to the last question is sustained.

12 BY MR. LEWIS:

13 Q. Regarding your quitting and your personal relationship with
14 Mr. Solomon, what was the concern that led you to leave the
15 pharmacy?

16 MR. BOHLING: Objection. It's the same question, just
17 asked --

18 THE COURT: Overruled.

19 BY MR. LEWIS:

20 Q. You may answer, ma'am.

21 A. Can you repeat that?

22 Q. Yes, ma'am. Regarding your personal relationship with Mr.
23 Solomon, you said there was some concern that led you to leaving,
24 I take it, the relationship and the pharmacy at the same time?

25 A. Yes.

1 Q. What was that concern?

2 A. I'm not understanding what you're trying --

3 Q. You said that because of some concerns you had, --

4 A. Uh-huh.

5 Q. -- you left both the relationship with Mr. Solomon and the
6 pharmacy, correct?

7 A. Yes.

8 Q. What was that concern?

9 A. I just didn't want to be in that environment. I knew that it
10 was not right.

11 Q. What was not right?

12 A. The amount of prescriptions that were coming in and the
13 different various people coming in to pick up prescriptions as
14 well.

15 Q. Okay. You're here today to testify at this hearing. Is that
16 pursuant to any agreement you have with the Government?

17 A. No.

18 Q. You haven't hired an attorney or anything or consulted with
19 one about your testimony?

20 A. No.

21 Q. How many times have you spoken or met with the Government?

22 A. It was a handful of times.

23 Q. Okay. Do you recall approximately when the first time was?

24 If we use the February 28th of 2009, here in Kansas City at the
25 airport as a benchmark, relative to that date, when was the first

1 time you spoke with the Government?

2 A. When Investigator Judy came to my house.

3 Q. In Austin?

4 A. Yes.

5 Q. Okay. You hadn't spoken on the phone with anyone prior to
6 that? She just showed up your house?

7 A. Correct.

8 Q. And approximately when was that?

9 A. I would say the later part of 2007.

10 Q. After that, when was the next time you spoke or met with the
11 Government?

12 A. I believe she gave me a phone call --

13 Q. Okay.

14 A. -- soon after that.

15 Q. Approximately?

16 A. I can't recall that.

17 Q. That's fine. So, we've got a visit to your home in late '07,
18 a call subsequent to that. Anything else before you come to
19 Kansas City, phone call or otherwise, a meeting in person or a
20 phone call?

21 A. No. Not that I think of.

22 Q. Okay. Who did you talk to to make the arrangements to come
23 to Kansas City?

24 A. Detective Judy Waterson.

25 Q. Okay. And that phone call took place a week, a day, how soon

1 before you flew here?

2 A. I believe it took a couple weeks before I actually flew down
3 here.

4 Q. Okay. And in that conversation a couple weeks before you
5 flew up here, did you discuss your testimony or any of the
6 matters that you discussed when you actually got here at the
7 meeting?

8 A. What do you mean?

9 Q. I mean, was it an organizational call as to your flight
10 itinerary or was it substantive about the facts of this case?

11 A. It was just about the flight.

12 Q. Okay. Between that phone conversation and your arrival here,
13 was there any other contact with the Government?

14 A. You said before?

15 Q. No. Between the phone call setting up logistics and actually
16 arriving here, was there anything in that intervening two weeks
17 or so, that you recall?

18 A. Just to make sure that I was coming and that I'd be picked
19 up.

20 Q. So, again, just about travel and those details, not about the
21 facts of the case?

22 A. Correct.

23 Q. Okay. So, then we have the meeting on February 28th of 2009
24 here. And that was definitely about the facts of this case,
25 right?

1 A. Yes.

2 Q. Anything since then?

3 A. No.

4 Q. Well, there had to be some phone conversations to set up your
5 travel here, right?

6 A. Oh, yes.

7 Q. When was that?

8 A. She called me the last week, I believe, to tell me that the
9 hearing would be scheduled for today.

10 Q. And "she" being Agent Waterson?

11 A. Yes.

12 Q. Judy --

13 A. Yes.

14 Q. -- as you said? Okay. And that discussion was more about
15 travel or substantive matters at all?

16 A. Travel.

17 Q. Okay. Now, did you arrive here today or yesterday?

18 A. Yesterday.

19 Q. Did you meet with her or anyone on the Government team at
20 that time?

21 A. No.

22 Q. Did you meet with them this morning about the substance of
23 your testimony?

24 A. I met with them this morning, yes.

25 Q. And discussed what it is you've talked about here today in

1 some fashion?

2 A. Yes.

3 Q. Okay. Let me ask you one other thing, Ms. Zapata. In your
4 work or your relationship with Mr. Solomon, did you ever hear the
5 name Philip Parker?

6 A. Yes.

7 Q. Tell us what you heard, in what context? His relationship to
8 the pharmacy?

9 A. I'm sorry.

10 Q. His relationship to the Ascensia Pharmacy?

11 A. He was there as one of the bosses and he was there like,
12 acting like a manager at times.

13 Q. When you were there?

14 A. Yes.

15 Q. Okay. So, lastly, the time frame that we're talking about
16 for Mr. Parker, he was there as a boss or manager, as you say, in
17 January '05 through the time you left?

18 A. Not through the whole time that I left.

19 Q. Okay.

20 A. He left before I left.

21 Q. Do you know anything about the circumstances surrounding his
22 departure?

23 A. Somewhat.

24 Q. What do you know?

25 A. I just know that he and Troy got into an argument over a

1 write-up and things after that, I guess, escalated. I'm sure
2 they've had problems before.

3 Q. Okay. I'm sorry. I did not quite hear you clearly. You
4 said "over a write-up"?

5 A. Yes.

6 Q. What do you mean by that?

7 A. Philip wrote --

8 MR. BOHLING: Your Honor, I'm going to object. I think
9 we're well off the trail.

10 THE COURT: Well, why is this relevant?

11 MR. LEWIS: It's not, Your Honor. I was just going to
12 see how far he'd let me go.

13 THE COURT: All right. Sustained.

14 MR. LEWIS: Thank you.

15 THE COURT: All right. Anything further from this
16 witness?

17 MR. BANNWART: Yes, Your Honor.

18 CROSS-EXAMINATION CONTINUES

19 BY MR. BANNWART:

20 Q. Ms. Zapata, have you and I ever met?

21 A. No.

22 Q. Do you know who I am?

23 A. No.

24 Q. Do you recognize my voice?

25 A. No.

1 Q. Okay. My name is Anthony Bannwart and I am one of Troy's
2 attorneys and I am also Delmon Johnson's attorney. I'd like to
3 talk to you a little bit about these references to a person
4 referred to as The Judge. You mentioned two conversations where
5 you heard The Judge referenced by Mr. Solomon, is that right?

6 A. Yes.

7 Q. When was that first conversation?

8 A. I cannot give you an approximate date.

9 Q. Can you give me a year?

10 A. 2005.

11 Q. 2005. Do you recall the circumstances under which this Judge
12 was mentioned?

13 A. No. He --

14 Q. Okay. Do you recall in relation to when you left Ascensia
15 Nutritional Pharmacy when that conversation was held?

16 A. I'm sorry?

17 Q. In relation to the time that you were there, you started in
18 January. You said you were there for about eight months. That
19 would be around August. Where, during the term of your
20 employment, in that time frame, when did this conversation take
21 place, this first one?

22 A. I'd say midpoint of my working relationship there.

23 Q. Okay. And what about -- and you don't remember the contents
24 at all of that conversation or why it was mentioned?

25 A. No.

1 Q. As we sit here today, let me ask you what's the importance of
2 that to you, the use of the term The Judge?

3 A. What do you mean the importance?

4 Q. Why are we sitting here talking about that today?

5 MR. BOHLING: Objection.

6 MR. BANNWART: As far as you know.

7 MR. BOHLING: That's an improper question.

8 THE COURT: Sustained.

9 BY MR. BANNWART:

10 Q. Do you have any understanding as to the significance of Mr.
11 Solomon referring to someone as The Judge?

12 A. Can you say that again?

13 Q. Do you have any understanding as to the significance, if any,
14 of Mr. Solomon referring to someone as The Judge?

15 A. I don't quite understand what you're asking me.

16 Q. I'm asking you why four years later you recall him referring
17 to somebody randomly as The Judge when you don't even remember
18 the contents of the conversation.

19 MR. BOHLING: I'm sorry. I'm just not clear. Is that
20 meant to be context or contents? I'm not hearing you.

21 MR. BANNWART: I said content.

22 MR. BOHLING: Okay.

23 THE WITNESS: Troy would usually just start talking and
24 saying things that later now brought -- it sparked on, you know,
25 a bulb that he could possibly have been -- pretty much he would

1 tell stories. Now, it's hitting me that maybe all those stories
2 he was telling have some truth to it.

3 MR. BANNWART: Okay. I understand that. But what is
4 the significance of The Judge --

5 MR. BOHLING: Objection.

6 MR. BANNWART: -- to these stories?

7 THE COURT: Overruled.

8 THE WITNESS: Because the name of The Judge and the name
9 on the petition were the same.

10 MR. BANNWART: I understand that.

11 BY MR. BANNWART:

12 Q. But you only learned that very recently, right?

13 A. Correct.

14 Q. So, why would you have remembered that Troy used the term,
15 that Mr. Solomon used the term The Judge in a conversation that
16 occurred four years ago when you don't remember the content of --
17 even the content of that same conversation?

18 A. We were having a discussion and he just blurted out like he
19 always would just random details, random themes, and he said that
20 if he ever got caught up, in trouble, that he had a friend, a
21 judge named Anthony, that can get him out.

22 Q. Did the Government suggest to you that that's important that
23 you recall that?

24 A. No.

25 Q. Did the Government suggest to you that, or ask you

1 specifically about someone called The Judge?

2 A. I'm sorry. Did they ask me specifically what?

3 Q. Did the Government, when they were speaking to you during
4 your numerous interviews, did they suggest to you that there was
5 some significant to someone being called The Judge?

6 A. Yes.

7 Q. Let's ask -- let's talk about the second conversation
8 involving the use of the term The Judge. Do you recall when that
9 was?

10 A. Not the exact date, no.

11 Q. Presumably it was after that first conversation, right?

12 A. Correct.

13 Q. So, somewhere from mid to the end of your tenure at Ascensia
14 Nutritional Pharmacy, right?

15 A. It was towards the end. It was the week after I had -- about
16 a week after I had stopped working for him.

17 Q. Okay. You know what? I think you actually had said that.
18 And what were the circumstances surrounding that conversation?

19 A. He told me that if I ever tried to get anything on him or if
20 I tried to tell anybody of what he was doing, that I would have
21 no luck because he had Anthony there to get him out.

22 Q. Now, you never spoke to this person called The Judge, right?

23 A. No.

24 Q. And you're putting the connection together now about the
25 names, right?

1 A. Yes.

2 Q. Did the Government ever suggest to you that there was a
3 connection between me and The Judge?

4 A. No.

5 Q. And it would be true then, you have no personal knowledge if
6 the person that Mr. Solomon was referring to was, in fact, me or
7 not?

8 A. Correct.

9 Q. Now, do you still live at the same place in Austin when you
10 were first interviewed?

11 A. No.

12 Q. You've moved since then?

13 A. (No audible response).

14 Q. Did the Government discuss with you the testimony of any of
15 the other witnesses here today?

16 A. No.

17 Q. Did they discuss some of the questions that might be asked of
18 you when you were on the stand today?

19 A. Not by cross-examination.

20 Q. So, they didn't tell you what Mr. Solomon or Mr. Johnson's
21 lawyers might say, but they kind of told you what they might ask?

22 A. Correct.

23 Q. Okay. When did your relationship, your personal relationship
24 with Mr. Solomon end?

25 A. Right about the same time that I had stopped working.

1 Q. Would it be fair to say that despite your discomfort with
2 what you believed was going on at Ascensia Nutritional Pharmacy,
3 you didn't have a problem with it until your personal
4 relationship with Mr. Solomon ended?

5 A. No. That's not right.

6 Q. You didn't quit as a result of any problems that you had
7 regarding the practices at Ascensia Nutritional Pharmacy. You
8 quit because your relationship with Mr. Solomon ended?

9 A. Correct.

10 MR. BANNWART: No further questions, Your Honor.

11 MR. BOHLING: Nothing further, Judge. Thank you.

12 THE COURT: Anything further?

13 MR. LEWIS: No, ma'am.

14 THE COURT: All right. I just have a couple of
15 questions.

16 EXAMINATION BY THE COURT:

17 Q. In response to Mr. Bannwart's question, let me make sure that
18 I understand your testimony. I think you said something to the
19 effect that Mr. Solomon would blurt out things at random and he
20 blurted out randomly that if he ever got caught up in something,
21 he had a friend, a judge name Anthony who could get him out. Is
22 that a fair summary of your testimony?

23 A. Right.

24 Q. And from the context that that statement was made, did you
25 think the person he was referencing was a judge or lawyer? Did

1 you have any understanding one way or the other?

2 A. Not a full understanding, no.

3 Q. All right. And the second conversation that you described,
4 you indicated, I think, in cross-examination that he called you
5 after you quit and said, if you try to tell anyone what he either
6 was doing that Anthony was there to get him out. Do you recall
7 that testimony?

8 A. Correct.

9 Q. And is that a fair characterization?

10 A. Uh-huh.

11 Q. And when he used the word Anthony in that discussion, did he
12 also use the term "judge" or did he just use the word Anthony?

13 A. I think he just said Anthony.

14 Q. Okay.

15 THE COURT: Anyone want to follow-up with anything?

16 MR. BOHLING: Yes, I do.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 BY MR. BOHLING:

20 Q. Did you have personal knowledge of whether there was an
21 attorney named Anthony who provided legal services to either Mr.
22 Solomon or the pharmacy while you were working there?

23 A. No.

24 Q. Okay.

25 THE COURT: All right. Anything further?

1 MR. BANNWART: Nothing from the defense, Your Honor.

2 THE COURT: All right. Thank you very much. All right.
3 Anything further?

4 MR. BOHLING: No, Your Honor. Thank you. We have no
5 more evidence.

6 THE COURT: All right. Anything from defense counsel?

7 MR. BANNWART: Your Honor, to the extent that we have
8 anything that we want to discuss with the Judge, we believe that
9 that should be held under 44(c) without the presence of the U.S.
10 Attorney. We don't have any witnesses we intend to call.

11 THE COURT: All right. Well, you know, we previously
12 had inquiries pursuant to 44(c), and I understand that your
13 clients have signed another waiver form.

14 MR. BANNWART: Yes, ma'am.

15 THE COURT: If you wanted to make -- we can talk about
16 what kind of record you want to make today. Obviously, I think
17 the Court has to look at the briefing, review the evidence.
18 We'll be ordering a transcript and actually make a ruling with
19 respect to the motion filed by the Government. I certainly don't
20 intend to make a ruling on that today. So, I guess, it would be
21 my thinking that any rule -- further Rule 44(c) inquiry, at least
22 made by the Court, would only come after the Court has made a
23 ruling on the pending motion. I'm happy to let you make inquiry
24 of the clients on the record today. But I guess I'd want to know
25 what it is about that inquiry that you think would warrant

1 excusing counsel.

2 MR. BANNWART: We don't intend to call either Mr.
3 Johnson or Mr. Solomon to the stand to testify. I was simply
4 suggesting that if the Court wanted to make further inquiry
5 today, that that should be done outside their presence, if you
6 wanted to make inquiry of us.

7 THE COURT: Oh, of counsel?

8 MR. BANNWART: Yes. And of the defendants about their
9 waiver.

10 THE COURT: All right. Well, you know, I mean, I think
11 the Government's position, and I don't mean to put words in the
12 Government's mouth, is, but I don't think they're saying
13 defendants didn't waive it. I think they're saying at this
14 point, because of four or five different reasons, it's a conflict
15 that they believe can't be waived.

16 MR. BOHLING: That's correct, Your Honor.

17 THE COURT: So, given that, the Court is going to have
18 to make some ruling on that. If the Court does, you know,
19 depending on how the Court rules, then there may be a need for
20 further inquiry on the record. And that's why, I mean, if you
21 want to make inquiry of your clients on the record today, I'm
22 happy to let you do so. But the Court wouldn't intend to make
23 any further Rule 44(c) inquiry until I've actually issued a
24 written ruling on the pending motion.

25 MR. BANNWART: I just wanted to make sure that base was

1 covered, Judge. We do not intend to ask any questions of our
2 clients.

3 THE COURT: All right. Anything further?

4 MR. BOHLING: Your Honor, there is one thing that has
5 come up during the course of this hearing. It's somewhat
6 unrelated, but it troubling to me. We did not learn about the
7 alleged conversation between Pleshette Johnson and Mr. Solomon
8 until last night, I think. And given that and the other
9 testimony that's been received, I have very serious concerns
10 about the possible violation of bond conditions. And I don't
11 know if you want me to discuss that now or set a separate
12 hearing. But I -- there's been quite a bit of testimony about
13 Mr. Solomon's conversations with witnesses that are
14 inappropriate. And in the case of the most recent one would
15 certainly violate his bond conditions, because I think he would
16 have known for sure that Pleshette Johnson was going to be a
17 witness in this proceeding. And at the very least I'd ask for a
18 strong admonition to the defendant not to contact witnesses, but
19 I'm not sure if that's a sufficient response to what we've heard
20 from the stand today.

21 THE COURT: All right.

22 MR. BANNWART: To the extent that the Court has a
23 concern, Your Honor, we will admonish our client. But they work
24 in the same building on the same floor in adjoining suites. It's
25 -- they're going to bump into each other. But I will admonish

1 and Mr. Lewis would admonish our client not to discuss this case
2 again.

3 MR. BOHLING: And that's not the issue, it's the
4 substance of what was said. I think it's very troubling.

5 THE COURT: Well, yeah. I was just looking at the bond
6 conditions. The bond condition was set by the court in Texas,
7 but it clearly indicates defendant is not to contact any victims
8 or potential witnesses. And to the extent you are working in the
9 same building, and it's not just with Ms. Pleshette Johnson, with
10 anyone who is going to be a witness in this case, then you cannot
11 speak to them about the case in any way. And, you know, you can
12 treat this as a warning from the Court. But if the Court does
13 have information to suggest that this is happening again, then
14 we'll be here to have a hearing to determine if bond should be
15 modified in some way.

16 MR. BANNWART: Understood, Your Honor. And also I would
17 just say that that conversation occurred before the Government
18 had filed its motions regarding Ms. Johnson and compelling her
19 testimony and that kind of stuff.

20 THE COURT: Well, okay. Then we need to make this very
21 clear. The bond conditions talks about potential victims,
22 potential witnesses. And to the extent you're not sure if
23 somebody is a witness, then you shouldn't be speaking to them.
24 But from the Court's standpoint, you don't become a witness just
25 because a motion for immunity has been filed. There are a lot of

1 other folks out there that may have information about the case
2 that may ultimately be called. And so what I don't then want to
3 have the next time we're back is, you know, a claim, well, they
4 didn't have a grant of immunity. That's not what I'm talking
5 about at all in terms of a witness. And I hear what you're
6 saying.

7 MR. BANNWART: Yeah.

8 THE COURT: But clearly, there are certain people whose
9 names have come up in the investigation, that I think all parties
10 know are potential witnesses. Whether they're ultimately called
11 or not is not the question.

12 MR. BANNWART: Okay. Well, and I just want to make sure
13 that, you know, our client isn't getting in trouble. For
14 example, I mean, he deals with patients who may be witnesses
15 daily. You know, we're having a conversations with favorable
16 witnesses at the same time. I don't think that the bond
17 restrictions were intended to cover that. In fact, there was a
18 restriction that he, you know, about Mr. Johnson, and they work
19 together.

20 THE COURT: Well, that was an exception.

21 MR. BANNWART: Right. And that -- and there was --

22 THE COURT: That was specifically noted as an exception.

23 MR. BANNWART: Exactly.

24 THE COURT: And if there are other folks that you need
25 to have noted as exceptions, and I think the fact that, you know,

1 an exception was made for someone that he does work with is --
2 should be a suggestion to everyone that at any time, if you're
3 coming in contact with people that you think are witnesses and
4 that you're not supposed to be talking to, then we need to make
5 an exception for them.

6 MR. BANNWART: Okay. I don't have that in front of me.

7 THE COURT: All right. Let me read to you what it is --

8 MR. BANNWART: Okay.

9 THE COURT: -- that you're required to do, Mr. Solomon.
10 "Avoid all contact with any alleged victim of the offense charged
11 and with any potential witness who may testify concerning the
12 offense. Do not associate with any person engaging in criminal
13 activities or has been charged or convicted of a felony or has
14 been released on bail, probation or parole. No contact with any
15 other defendant except Delmon Johnson for work only." That is
16 the condition that's in effect.

17 MR. BANNWART: Okay. Then we may have to visit that,
18 Judge, because of the nature of their work. Patients come in
19 there every day. And if -- and what we might do is submit to the
20 Court a list of those people. There are also personal friends
21 and family acquaintances that would fall under that umbrella.
22 But I do understand the intention of the Court.

23 THE COURT: Well, the intent of the Court is that if
24 there's any clarification that's needed, then you need to come to
25 court and get a clarification.

1 MR. BANNWART: We'll do that.

2 THE COURT: All right. Anything further?

3 MR. BOHLING: No, Your Honor. Thank you.

4 THE COURT: All right. We'll be in recess.

5 (Court Adjourned at 12:53 p.m.)

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WITNESSES FOR

THE PLAINTIFF:

DIRECT

CROSS

REDIRECT

RECROSS

Pleshette Johnson	5	22	47	50
Cynthia S. Martin	51	60	74	
Lillian A. Zapata	76	81	95	

EXHIBITS:

MARKED

ADMITTED

G#3	15	16
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I certify that the foregoing is a correct transcript from the electronic sound recording of the proceeding in the above-entitled matter.

/s/ Lissa C. Whittaker
Signature of transcriber

April 21, 2009
Date