

1 Mississippi corporation?

2 A I'm afraid he did, sir. He certainly did. It's the  
3 only corporation there was.

4 Q Well, Mr. Ullman said he didn't, and you said he did,  
5 and let's leave it at that. Now, after that interview  
6 with Mr. Ullman-- Anything else in that, as Mr.  
7 Ullman reiterated, that interview that you believe  
8 that Mr. Ullman was telling an untruth about?

9 A I don't have the specifics. I was very surprised on  
10 his attitude.

11 Q Well, that was when you found out that you were the  
12 subject of a criminal investigation of the Wisconsin  
13 Department of Revenue, wasn't it, sir?

14 A Not true.

15 Q At least as of the time that you were speaking to Mr.  
16 Ullman it became quite apparent that you would be the  
17 subject of a criminal investigation, didn't it?

18 A Not at all, not to me.

19 Q Based upon the answers that you were giving to Mr.  
20 Ullman--

21 A Didn't-- I didn't care one way or the other.

22 Q Now, Mr. Wanta, about three months after that you  
23 left the United States, did you not?

24 A I left a lot sooner than that.

25 Q Well, as a matter of fact, didn't you leave in

1           September of 1991 to go to Singapore?

2       A     I was already in Singapore October 1989 managing  
3           director of Aneko Credit. As of October 1989, I was  
4           managing director of Aneko Credit.

5       Q     Please, please, Mr. Wanta. Let me ask the questions,  
6           and you answer them. We don't want-- Did you go to  
7           Singapore in September of 1991, sir?

8       A     No, I did not.

9       Q     You deny that your passport reflects that you went to  
10          Singapore in that period of time?

11      A     I was not there in September of 1991, not at all.

12      Q     And you stayed in Singapore, as a matter of fact, and  
13          you were in Singapore in May of 1992, were you not?

14      A     Yes. I work there, and I lived there.

15      Q     And in May of 1992 there came a time when you were  
16          served with a copy of a criminal complaint and  
17          warrant in this case; isn't that correct?

18      A     I was not served, no.

19      Q     Mr. Wanta, do you deny that you were handed a copy of  
20          an arrest warrant and criminal complaint in the  
21          matter of State of Wisconsin v. Leo E. Wanta by the  
22          Assistant Customs Attache in Singapore, David E.  
23          Meisner, on May 15th, 1992?

24      A     I can say that he did not serve me with any summons  
25          and complaint and arrest warrant in Singapore at the

1 embassy I was-- He suggested to me to clear this  
2 matter up within two days.

3 Q Mr. Wanta--

4 A He did not serve it.

5 Q You had a copy of that criminal complaint in the  
6 briefcase that you brought back to the United States  
7 when you finally arrived back here in November of  
8 1993, did you not?

9 A I don't believe so, no. I haven't seen my briefcase  
10 since that period of time.

11 Q You don't recall this criminal complaint being in  
12 your briefcase at that -- when you came back?

13 A May I see it, please?

14 Q And you deny-- We're going to have it marked I  
15 guess.

16 (Whereupon, Exhibit No. 47 was marked for  
17 identification.)

18 Q (By Mr. Haag) Mr. Wanta, show you what has been  
19 marked as Exhibit 47 and ask if that's a document  
20 that you had that traveled around the earth with you  
21 in your briefcase after you received it?

22 A I deny having that copy until December 13th, 1993, by  
23 the sheriff's sergeant here in Dane County after my  
24 abduction from Switzerland. That's exactly when I got  
25 it.

1 Q And you deny that you were personally served with an  
2 arrest warrant and complaint by Mr. Meisner,  
3 Assistant Customs Attache, on May 15th, 1992, in  
4 Singapore?

5 A Absolutely without question.

6 Q And you also deny, sir, that at that time Mr. Meisner  
7 advised you of the nature of the charges you were  
8 charged with in Wisconsin?

9 A He, David?

10 Q I'm asking you this. Do you deny that, sir? Do you  
11 deny that Mr. Meisner in addition to handing you a  
12 copy of the arrest warrant and complaint advised you  
13 of the nature of the charges against you?

14 A He never served me any complaint. He told me I had  
15 two days to clear up a tax matter in Appleton.

16 Q Did he advise you of the nature of the charges, Mr.  
17 Wanta?

18 A He did not say charges. Tax assessment, money due.  
19 Pay it or we're in trouble, period.

20 Q Did he tell you that if you did not immediately and  
21 directly travel to the U.S. order -- in order to  
22 surrender to Wisconsin authorities, federal warrants  
23 would be sought for flight, flight to avoid  
24 prosecution?

25 A No, he did not.

1 Q Do you deny that he told you to have your attorney  
2 immediately contact the Wisconsin Department of  
3 Justice?

4 MR. CHAVEZ: Judge, I'm going to object.  
5 This is all hearsay. My client is denying--

6 THE COURT: He's denying it which he can do,  
7 and the question and the answer do not prove it, but  
8 I assume that--

9 MR. HAAG: I have an opportunity to ask.

10 THE COURT: He can ask. I mean it's not--  
11 It's a question of was a statement made to Mr. Wanta.  
12 It doesn't deal with the proof of it or the truth of  
13 the assertions, but it's admissible. The question can  
14 be asked. Overruled.

15 Q (By Mr. Haag) The question I asked you, Mr. Wanta,  
16 was at that time do you recall that Mr. Meisner  
17 advised you to have your attorney immediately contact  
18 the Wisconsin Department of Justice?

19 A No, he did not.

20 Q At that time, May 15th, 1992, Mr. Wanta, do you  
21 recall that Mr. Meisner, the Assistant Customs  
22 Attache in the American embassy in Singapore, gave  
23 your attorney in your presence a copy of the United  
24 States code sections on flight to avoid prosecution  
25 and impersonation of a federal officer?

1 A No, he did not.

2 Q Do you deny, sir, that on that date Mr. Meisner, the  
3 Assistant Customs Attache at the American embassy in  
4 Singapore, May 15th, 1992, cautioned you to stop  
5 claiming you were an officer or employee of the  
6 United States government?

7 A No, he did not.

8 Q Did you tell Mr. Meisner that you would make  
9 arrangements with your attorney to complete your  
10 business travel and then go directly to Wisconsin to  
11 surrender?

12 A No, I did not.

13 Q Prior to that point in time was your passport being  
14 taken away from you by people in Singapore?

15 A Which one?

16 Q Do you have an American passport?

17 A Yes, I do.

18 Q Was that taken away from you?

19 A It was held as bond for a commercial affairs  
20 investigation because the State of Wisconsin wanted  
21 to see if I had income.

22 Q As a matter of fact, it was held because of an  
23 alleged fraud you had perpetrated in Singapore; isn't  
24 that correct, sir?

25 A Absolutely untrue. Absolutely untrue. I lived in

1 Singapore.

2 Q And after May of 1992 did you thereafter go back to  
3 the United States to face charges in the State of  
4 Wisconsin?

5 A No, I did not.

6 Q At a point in time, as a matter of fact, you went  
7 back; you took off and went to Canada; isn't that  
8 correct, sir?

9 A At what time?

10 Q Did you stay in Canada from July of 1992 until  
11 approximately June of 1993?

12 A Yes.

13 Q And after leaving Canada in June of 1993, did you go  
14 to Europe?

15 A Yes, I did.

16 Q And were you in Switzerland from approximately June  
17 of 1993 until November of 1993?

18 A Partially.

19 Q And did you come back to the United States freely and  
20 voluntarily of your own free will to finally  
21 surrender to Wisconsin charges?

22 A Absolutely not.

23 Q But you got back here, didn't you, Mr. Wanta?

24 A I was detained by the State of Wisconsin July 7th,  
25 1993, put in solitary confinement.

1 Q Did you-- Mr. Wanta.

2 A You asked a question. I gave you the answer.

3 Q Do you want to go into why you were detained?

4 A Please do.

5 THE COURT: No. Ask the next question.

6 Q (By Mr. Haag) Mr. Wanta, when you were in  
7 Switzerland, did you claim to be the Somalian  
8 ambassador to Switzerland and Canada?

9 A I did not claim. I had the paperwork through the  
10 Whitehouse. That is correct.

11 Q Were you incarcerated in Switzerland, Mr. Wanta,  
12 because of a fraud, bank fraud, involving your claim  
13 to be the Somalian ambassador to Switzerland?

14 A No, sir.

15 THE COURT: Can I see counsel for just a  
16 minute?

17 (Whereupon, a discussion was held off the  
18 record outside the presence of the jury.)

19 THE COURT: We're not going to excuse you  
20 for too long, but I'm hoarse, and I can't whisper for  
21 too long, so you're excused.

22 (Whereupon, the following proceedings were  
23 held outside the presence of the jury:)

24

25 THE COURT: The point that I-- The



1 question that I asked counsel is whether or not he  
2 was prepared to -- if he had a basis for all of the  
3 assertions that he was making by questions, and he  
4 had to be in a position to prove them if he was going  
5 to ask them, and I guess that's where the-- Mr.  
6 Chavez you went -- were saying a couple things, and I  
7 don't want to preclude you from saying them right now  
8 if you want to, and then we'll--

9 MR. CHAVEZ: Well, that was exactly my  
10 concern, and I hesitated objecting because I don't  
11 want to look like I'm trying to hide something from  
12 the jury. That was my biggest concern, and Mr. Haag  
13 is asking questions about a Mr. Meisner who's not  
14 here to support any of these statements. I don't have  
15 any opportunity to cross-examine anything about those  
16 statements, and, quite frankly, I think, Doug, you're  
17 testifying.

18 THE COURT: My assumption is-- Well, go  
19 ahead, Mr. Haag. There's at least one thing you've  
20 got--

21 MR. HAAG: Judge, I do not have the Customs  
22 Attache from Singapore here, but I certainly am  
23 allowed to ask the questions. I'm stopped by his  
24 answer. He denies it. I'm stuck. That's the way it  
25 goes and -- but certainly it is fair for me to when I

1           have a factual predicate -- not as in the Johnny  
2 Cochran; this is Doug Haag -- I have a factual  
3 predicate. I'll have it marked as an exhibit in this  
4 case. I know it will never get before the jury  
5 because I can't get it authenticated, but I want Your  
6 Honor to understand I'm not asking that question the  
7 way things are going out in Los Angeles. I've got a  
8 factual predicate.

9                       As to the other issue, I wasn't going  
10 to touch why Mr. Wanta was imprisoned in Switzerland,  
11 but when Mr. Wanta in front of the jury volunteers to  
12 the jury beyond the scope of my question that he was  
13 incarcerated in Switzerland because of the State of  
14 Wisconsin, I can't sit there and say, when I've got  
15 evidence to the contrary, I can't-- It seems to me  
16 that I have a right to ask the question -- the  
17 follow-up questions. He opened the door, Judge. I  
18 wasn't going to touch that. I don't want to get into  
19 it but--

20                   THE COURT: On that subject if you've got  
21 something to prove it, why that's fine.

22                   MR. HAAG: What I'd like to do is simply to  
23 have, you know, the Court-- I'll have Mr. Wanta  
24 identify this if he can. If he can't, it came out of  
25 his -- the materials that we obtained in a search

1 warrant for -- or came off of the personal effects of  
2 Mr. Wanta when he was arrested.

3 THE COURT: Well, I'm willing to have you do  
4 for whatever the record -- for the record whatever  
5 you want to do. I just wanted to raise the issue  
6 because I didn't know--

7 MR. HAAG: Let me tell you what my concern  
8 is. I don't want to make a big deal out of something  
9 that was not an issue until Mr. Wanta made it an  
10 issue. I don't want this to come-- I don't want Mr.  
11 Wanta's volunteering a falsity about the State of  
12 Wisconsin coming back to create a problem should this  
13 matter ever go up on appeal, and so what I've got to  
14 represent to the Court-- I've had it marked as an  
15 exhibit. I will show counsel. It's the factual  
16 predicate for that question, and I will stop, and I  
17 will cease from here on questioning Mr. Wanta about  
18 that question because I don't want this to be a  
19 problem, and I will put this into the record as the  
20 factual predicate. That's what I would purport to do.

21 (Defense counsel reviews exhibit.)

22 (Brief discussion off the record.)

23 (Whereupon, Exhibit Nos. 48-49 were marked  
24 for identification.)

25 MR. HAAG: Well, what I'd propose to do,

1 Judge, would be simply file with the Court and ask  
2 that they be received into evidence but only as to  
3 substantiate the factual basis for the questions that  
4 were asked.

5 THE COURT: Those are exhibits numbered 49  
6 and 48, I assume?

7 MR. HAAG: Right.

8 THE COURT: Mr. Chavez?

9 MR. HAAG: Excuse me. Particularly referring  
10 the Court to the top third of the page on Exhibit 48  
11 where Mr. Wanta is discussing his predicament in  
12 Switzerland. It was on that basis that the questions  
13 were asked.

14 THE COURT: Mr.--

15 MR. CHAVEZ: Chavez.

16 THE COURT: Chavez.

17 MR. CHAVEZ: That's okay, Judge. If Mr.  
18 Wanta identifies that as his, fine, but it's not  
19 signed. I don't think there's any way to really  
20 authenticate that document.

21 THE COURT: My understanding is that, and I  
22 may be wrong, if I understood Mr. Haag correctly, all  
23 he's doing is filing these as an indication to the  
24 Court that he had a factual basis or factual  
25 predicate before the asking of the questions. My

1 understanding is that he does not really want them in  
2 evidence for reasons other than that. Mr. Haag?

3 MR. HAAG: That's correct, Your Honor. I  
4 don't think it's necessary.

5 MR. CHAVEZ: In that context only.

6 THE COURT: For those purposes -- that  
7 purpose, they'll be made part of the record, but just  
8 so I don't get involved in it, I won't really make  
9 them -- receive them into evidence as exhibits in the  
10 trial of the case.

11 MR. HAAG: Thank you, Your Honor.

12 THE COURT: But they are received for the  
13 purposes which you indicated. Do I understand that we  
14 are going on to other things then?

15 MR. HAAG: I think we're-- Judge, we're  
16 essentially done, Judge.

17 THE COURT: Bring the jury back in, please.

18  
19 (Whereupon, the following proceedings were  
20 held within the presence of the jury:)

21 THE COURT: Mr. Haag.

22 MR. HAAG: Thank you, Your Honor. Thank you,  
23 Mr. Wanta. I have no further questions.

24 THE COURT: Redirect.

25 MR. CHAVEZ: No, no redirect.

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THE COURT: Mr. Wanta, you're excused. You may have a seat at counsel table.

THE WITNESS: Thank you.  
(Witness excused.)

THE COURT: Further evidence, Mr. Chavez, with the possible exception of cleaning up of various exhibits, but witnesses?

MR. CHAVEZ: Your Honor, we don't have any more witnesses, but I'd like to move into evidence any exhibits that I didn't before.

THE COURT: Why don't we take a few minutes. I'll allow you to reserve that, and we'll do that. You can have an opportunity to look through it.

MR. CHAVEZ: Right.

THE COURT: We don't need to do that with the jury here. Any rebuttal?

MR. HAAG: Only to the-- It could be handled as rebuttal-- It could be handled if I can talk to counsel for a minute.

THE COURT: Go ahead.

(Whereupon, a discussion was held off the record outside the presence of the jury between counsel.)

(Whereupon, Exhibit No. 50 was marked for

1 identification.)

2 THE COURT: Mr. Haag.

3 MR. HAAG: Your Honor, the State would offer  
4 Exhibit 50 as the paper documentation for the  
5 questions asked of Mr. Wanta when I read into the  
6 record the contents of the four pages of Exhibit 50,  
7 and Mr. Wanta acknowledged that he had sent letters  
8 which said what I read of the date.

9 THE COURT: Mr. Chavez, as they're offered,  
10 Exhibit No. 50?

11 MR. CHAVEZ: Again, I object to those  
12 because--

13 THE COURT: All right. We'll take the  
14 argument outside of the presence-- Ladies and  
15 gentlemen-- Any other rebuttal?

16 MR. HAAG: That's it, Your Honor.

17 THE COURT: All right. Ladies and gentlemen,  
18 we're going to deal, as you can just hear, with at  
19 least one exhibit. There may be some others. We  
20 want to clean up the list as to what's been received,  
21 what's been marked, what hasn't been received, and  
22 with that, dealing with exhibits, my understanding is  
23 that the evidence is then closed, and apart from the  
24 discussion regarding exhibits, the Court and counsel  
25 has an obligation to have a conference to decide

1 exactly what forms the verdict will be submitted to  
2 you, what instructions will be given to you. That  
3 will take hopefully not too long, and I don't know  
4 what "too" means in that situation, but we will make  
5 it as short as we can at which time we'll direct you  
6 back into the courtroom. The instructions will be  
7 read to you, counsel will have an opportunity to make  
8 their closing arguments, but for the moment -- and I  
9 should tell you that I expect it would be at least a  
10 half an hour -- you'll be excused to the jury room.  
11 Thank you.

12 (Whereupon, the following proceedings were  
13 held outside the presence of the jury:)

14  
15 THE COURT: Let's deal with this Exhibit 50  
16 for the moment, and then we'll take a recess, and you  
17 can go through the other exhibit list. Your objection  
18 to this is what, Mr. Chavez?

19 MR. CHAVEZ: Well, in my brief conference  
20 with Mr. Wanta, he denies ever seeing these before.

21 THE COURT: We can have the clerk or the  
22 reporter check the testimony. I'm assuming that these  
23 are the documents from which Mr. Haag read, and there  
24 were indeed a couple of others that his question was,  
25 "Did you direct the letter to Mr. Kurt Becker," and



1 I recall that. I don't recall the exact verbiage of  
2 it, and one was the Kurt Becker Group. There was  
3 some-- Mr. Wanta as I recall expressed some  
4 uncertainty as to the date, but I think he  
5 acknowledged the letters.

6 MR. CHAVEZ: He just informed me that the  
7 ones Mr. Haag showed him were signed.

8 MR. HAAG: Absolutely. I showed him those.  
9 This is a different exhibit. These are the ones I  
10 read to him, and he acknowledged.

11 THE COURT: The fact is that when Mr. Haag  
12 read, he did not show them to Mr.-- He sat back  
13 there and read them, and I was waiting for either Mr.  
14 Wanta or yourself to say, "Show me the letter so I  
15 can look at it," but he didn't, and I mean if you  
16 want to, you can check with the reporter. It was  
17 during cross, and I can't-- That came after. There  
18 was a question, I believe, about Exhibit 15 and a  
19 letter from Ellis-- No, it was before that. It was  
20 after the testimony about Exhibits 4 and 5 which I  
21 think were the first questions asked of Mr. Wanta.  
22 Check with-- Ask the reporter to go back over it,  
23 but my recollection is -- my assumption is if these  
24 documents are the ones that Mr. Haag read to Mr.  
25 Wanta, I do not recall him showing them to Mr. Wanta

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so--

MR. CHAVEZ: I was wrong. I was wrong. He did not show them to my client.

THE COURT: All right. And if, in fact, these are what he was read, why Mr. Wanta acknowledged them, but check with my reporter.

MR. HAAG: I should indicate, Your Honor and counsel, there is--

THE COURT: I don't know whether he read them in their entirety.

MR. HAAG: I did not read-- I can indicate on Page 2 I did not read the German at the bottom. That was a note that someone else did. It was not authored by Mr. Wanta, and I did not read the "PS" of Mr. Wanta. That's as to Page 2. As to the others, I read their entirety, Your Honor.

THE COURT: If you want to satisfy yourself to that Mr.--

MR. HAAG: I'd be happy to mask that portion if you wish.

THE COURT: Well, I think what goes to the jury and what you can argue from are two different things, and I have some general rules that I have historically applied to that which either one or both of you may recall.

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MR. HAAG: I'm familiar with them, and I think they're correct, Your Honor.

THE COURT: But, Mr. Chavez, if you and Mr. Wanta want to double check that with what the reporter's notes are, that's fine. Not right now, when we recess. Take a look at the exhibits, what else is in or isn't in. Find out what you want to move then and what you don't, and we'll be back and deal with that as well as my reporter checking her notes, and when we do all of that, we'll then have a conference on forms of verdict, which I have some suggestions on, and instructions, which I have some suggestions inasmuch as I have received no requests from either party with the exception of a prepared instruction on Counts 3, 4, 5, and 6.

MR. HAAG: I have-- I don't have a formal preparation, but I -- last night I sat down and at least wrote down the jury instructions I thought were appropriate, Judge.

THE COURT: All right.

(Recess taken.)

THE COURT: We are back on the record in State v. Wanta. Counsel are present as previously. Mr. Wanta is present personally. Mr. Chavez, did you

1 and Mr. Wanta have an opportunity to check the  
2 reporter's notes regarding Exhibit 50, I think it  
3 was?

4 MR. CHAVEZ: That's correct, Judge. Yes, we  
5 have. My client does confirm writing the 1 September  
6 '88 letter.

7 THE COURT: I want to know what the record  
8 shows.

9 MR. CHAVEZ: Oh.

10 MR. HAAG: It did show that.

11 MR. CHAVEZ: It did show that.

12 THE COURT: Okay.

13 MR. CHAVEZ: And he confirms at least to  
14 certain portions of the 1 September '88 letter, same  
15 thing with the September 1988 letter, same thing with  
16 the October 17th, '88, fax I believe Mr. Haag termed  
17 it, and there's a total denial as to 12 February '89.

18 MR. HAAG: That's--

19 THE COURT: And without seeing it, I don't  
20 know what you're talking about. With respect to that  
21 last page, February 12th fax, that was read to Mr.  
22 Wanta?

23 MR. HAAG: Yes, it was, and he denied it,  
24 Your Honor.

25 THE COURT: And anything either of you want

1 to say on it?

2 MR. CHAVEZ: Judge, in any event whether he  
3 denied it or did not deny it, Mr. Haag can argue it.  
4 Why does it have to come into evidence? There's  
5 nothing to support-- There's no vehicle to get that  
6 document in at this point.

7 THE COURT: Well, let me just say this. What  
8 I end up doing with this kind of evidence very  
9 honestly is receiving it to the extent that it was  
10 read and acknowledged so that that's the evidence.  
11 The evidence is, in fact, the reading and the answer,  
12 and I receive it into evidence to that extent so that  
13 the real problem is that you can't read from  
14 something that is not in evidence arguably at any  
15 rate, and I can't and don't expect either counsel to  
16 be able to retain in memory what the full recitation  
17 was so that in argument you're right. He can say Mr.  
18 Wanta acknowledged that he wrote this to the extent  
19 that Mr. Wanta acknowledged it. It's not going to go  
20 to the jury.

21 My rules basically are that, so you  
22 understand it ahead of time, is that the jury doesn't  
23 get two shots at anything. In short, if there's --  
24 because all that does is emphasize that part of it,  
25 and it does not emphasize the verbal testimony that

1 is independent of exhibits so that Mr. Haag or  
2 yourself can argue whatever the evidence was, and if  
3 it came from a document, you may argue to the jury  
4 that it was acknowledged. That's fine, and to that  
5 extent it is received. It is not received for the  
6 purpose of going to the jury, and because my rule is  
7 if somebody says is this the document and then reads  
8 the document into the record; you want it to go, the  
9 jury then gets it twice, and I don't let that happen.  
10 That's my ruling, so to that extent and in that  
11 manner, it is received.

12 (Whereupon, Exhibit No. 50 was received  
13 into evidence.)

14 MR. HAAG: Thank you, Your Honor.

15 THE COURT: Anything else on the other  
16 exhibits? Let's see what we've got. Let me see the  
17 list. It would appear that the exhibit list which I  
18 have shows that Exhibit No. 1 which was the-- I  
19 want Mr. Wanta to be sure to hear this. That Exhibit  
20 No. 1, which was your initial two-page statement,  
21 sir--

22 MR. WANTA: Thank you.

23 THE COURT: --that's in the record, but I  
24 did not receive it as an exhibit because they can't  
25 read it to the jury.

1 MR. WANTA: Understood. Thank you.

2 THE COURT: Exhibits 2 through 35, and each  
3 counsel here should have a list of this, a copy of  
4 it, 2 through 35 are received. Exhibits 36 through 45  
5 were denied admission into the record. Exhibits 46  
6 and 47 which I ended up changing the hats on to  
7 mark-- I don't even remember what they were. One of  
8 them is a letter. One of them is a complaint. Is  
9 anybody moving those into the record? Hearing no such  
10 motion--

11 MR. HAAG: What? I'm sorry. I didn't hear  
12 the number.

13 THE COURT: You've got to pay attention.  
14 Exhibits that I marked, 46 and 45 -- 46 and 47 which  
15 are a letter-- I don't recall what it is. She should  
16 have it over here.

17 MR. HAAG: I would--

18 THE COURT: And 47, which is the complaint.

19 MR. HAAG: Both of those should -- I believe  
20 are over there. We'll find them if they aren't. I'm  
21 not moving-- Those were put into the record. I'd  
22 like them to remain in the record as simply to show  
23 the good faith basis for the questions.

24 THE COURT: All right.

25 MR. HAAG: And 46 and 47?

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THE COURT: That's correct.

MR. HAAG: And I'd ask that the clerk indicate in the notes that 46 is the Jack Ellis letter, and 47 is a copy of the criminal complaint.

THE COURT: All right. Do you have any objection to that, Mr. Chavez? They're not received-- They're not offered to be in the evidentiary record but merely in the record of the case.

MR. CHAVEZ: That's fine.

THE COURT: And Exhibits 48, 49, and 50.

MR. HAAG: As to 48 and 49, I offered those-- I did not offer those. I ask that those be placed in the record too to show the good faith basis for the questions, 48 being the written notes of Mr. Wanta, and 49 being the fax transmittal from David Meisner, M-e-i-s-n-e-r.

THE COURT: That was the one that I recall that Mr. Wanta denied receiving or something like that, whatever it was.

MR. HAAG: That's correct, Your Honor.

THE COURT: All right. Any objection to that?

MR. CHAVEZ: Yeah, we object to those, Your Honor.

MR. HAAG: I'm not offering them in



1 evidence.

2 THE COURT: He's offering-- He wants them  
3 made a part of the record, so that they -- not the  
4 evidentiary record, just part of the record just like  
5 46 and 47 were. You indicated that there was a  
6 factual predicate for his questions. I don't see any  
7 problem with that.

8 MR. CHAVEZ: Okay. Similar to 50 or exactly  
9 the same as 50?

10 THE COURT: I don't know what 50 is.

11 MR. CHAVEZ: That's the first one we argued.

12 THE COURT: Oh, all right. Well, that is  
13 received into the record insofar as it was read into  
14 the record.

15 MR. CHAVEZ: Okay. I understand.

16 THE COURT: It's just not going to the jury  
17 that's all.

18 MR. CHAVEZ: Right, right. I understand.

19 THE COURT: All right. That deals with all  
20 of the exhibits, I believe, and--

21 MR. CHAVEZ: Judge?

22 THE COURT: Yes.

23 MR. CHAVEZ: I'm sorry. As to Exhibit 50,  
24 I'd like to go back to that, and I think Mr. Haag  
25 agrees that some portions of that should be excised

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pursuant to my client's wishes.

THE COURT: Well, I don't know that we're doing things with respect to either party's wishes, but my point is that to the extent that they were read into the record already to the jury and Mr. Wanta acknowledged them, they are a part of the record because they were read in, and he acknowledged them. There was portions of the last page, as I understand it, which Mr. Wanta denied or declined or said he didn't know anything about. That's not part of the record. Only the portions that he acknowledged are made a part of the evidentiary record. I don't know that you understand what I'm saying but--

MR. WANTA: They had more on there that I'd never heard about.

THE COURT: Well, I know, but Mr. Haag read stuff, and do you remember this or did you write this, and you said either yes or no, and to the extent you said yes, it's part of the evidentiary record. To the extent you said no, it's not. Simple as that.

MR. CHAVEZ: Well, there was some portions, Judge, Mr. Haag didn't read the entire letter, and that's what he's having a problem with.

MR. HAAG: His honor is saying that that

1           portion is not part of the record.

2                   THE COURT: It's not part of the record. The  
3 record is what Mr. Wanta admitted and the reporter's  
4 notes show he admitted.

5                   MR. CHAVEZ: Very good, Judge. I'm making  
6 absolutely sure that my client understands that.

7                   THE COURT: Thank you. And I must confess  
8 when you're making your argument, I'm not going to  
9 remember if he declined Line 4 or Line 10, and you're  
10 going to have to deal with that. Anything else?

11                   MR. CHAVEZ: Yes, Judge. I just want to  
12 make sure that my exhibits went in. I believe it was  
13 the amended Information and the bank check, the  
14 \$14,000 check.

15                   THE CLERK: Do you have Exhibit 34 down  
16 there?

17                   MS. ELIAS: I'm not sure I do.

18                   THE COURT: Yeah. I want all the exhibits  
19 up on my bench. I don't want them sitting at counsel  
20 table.

21                   MR. CHAVEZ: Thank you, Judge.

22                   THE COURT: All set on exhibits?

23                   MR. HAAG: Yes, sir.

24                   THE COURT: All right. My clerk is in the  
25 process of completing some forms of verdict which

1 I'll have ready for you as well as instructions in a  
2 minute. Mr. Haag, you indicated earlier that you had  
3 made some notes or a listing of prepared  
4 instructions. Do you have that? We're not going to  
5 discuss them right now. I just want to know what  
6 they are.

7 MR. HAAG: Do you want me to indicate to  
8 Your Honor on the record or-- What I've done is I've  
9 simply listed them.

10 THE COURT: Numbers?

11 MR. HAAG: --in the index. I've checked the  
12 index of those.

13 THE COURT: Let me see what you've got.

14 MR. HAAG: Okay. I thought we were going to  
15 be discussing them, so I have not-- I don't have  
16 any formal proposal. I've got my notes. Those that  
17 I've checked are ones that I recommend. The other  
18 ones I thought you'd like to discuss.

19 (Court reviews list.)

20 THE COURT: Do you have anything like that,  
21 Mr. Chavez?

22 MR. CHAVEZ: No, I don't.

23 THE COURT: I will put together some things,  
24 and we'll have a conference on the record with regard  
25 to it.

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MR. CHAVEZ: Thanks, Judge.

(Recess taken.)

THE COURT: We are back on the record in State v. Wanta. Counsel are present as previously. Mr. Wanta is present personally. With regard to the forms of verdict and instructions, so the record is clear, neither the State nor the defense provided the Court with any prepared form of verdict. The Court has drafted some itself, given each counsel a copy. The Court has also with regard to instructions-- The State made checkmarks on an index and with regard to certain instructions. The Court has put together a packet of instructions and would intend to go through those and ask counsel if they have any objections by either inclusion or exclusion and deal with them in that manner, but, first of all, with respect to the forms of verdict, does the State have any objection.

MR. HAAG: No objection, Your Honor.

THE COURT: Does the defense?

MR. CHAVEZ: No, Judge.

THE COURT: I'd like to have you staple these together then with regard to each count, Count 1 and 2, so they don't get separated.

With regard to the instructions, the

1 Court would propose to give the following  
2 instructions; 100, opening instruction; 103, evidence  
3 defined; 155, exhibits; 147, improper questions; 157,  
4 remarks of counsel; 160, arguments of counsel; 150,  
5 stricken testimony; 147, improper questions; 215,  
6 objections of counsel. Evidence received over  
7 objection; 110, reading of the Information.

8 MR. HAAG: Your Honor--

9 MR. CHAVEZ: Hold on, Judge.

10 MR. HAAG: I don't think we have 215 unless  
11 it's in a different order. It's not in my--

12 THE COURT: Should be because I had them,  
13 and they purported copies were made.

14 THE CLERK: They must have stuck together or  
15 something. I don't know.

16 MR. CHAVEZ: 215, Judge?

17 THE COURT: Well, 215 is objections of  
18 counsel. It reads as follows. "Attorneys for each  
19 side have the right and duty to object to what they  
20 consider are improper questions asked of witnesses  
21 and to the admission of other evidence which they  
22 believe is not properly admissible. No adverse  
23 inference is to be drawn from any such objection. By  
24 allowing testimony or other evidence to be received  
25 over the objection of counsel, the Court is not

1           indicating any opinion as to the weight of the  
2           evidence. You jurors are the sole judges of the  
3           credibility of the witnesses and of the weight of the  
4           evidence." That's a standard instruction, so in any  
5           event, the next one after that-- I will try to see  
6           if there are copies that slipped down some place.  
7           110, reading of the Information; 145, Information not  
8           evidence; 5012, filing a false or fraudulent return.  
9           The next one does not have a number because it is not  
10          a standard instruction. It is concealing property to  
11          evade tax. That relates to Counts 3, 4, 5 and 6. It  
12          is, as earlier suggested or submitted as a draft by  
13          Mr. Haag, and, Mr. Chavez, I think you indicated at  
14          the time that you'd received a copy and didn't object  
15          to it, so it is as a matter of fact as submitted by  
16          the State. I've read through it. It seems to be  
17          appropriate.

18                         MR. CHAVEZ: It seems to be appropriate to  
19          me also, Judge.

20                         THE COURT: 140, burden of proof,  
21          presumption of innocence; 300, creditability of  
22          witnesses; 1930, weight of the evidence; 195, jurors  
23          knowledge; 460, closing instructions; 515, unanimous  
24          verdict and selection of presiding juror. When the  
25          jury returns, I would also read to them whatever that

1 instruction is about that they can talk or not talk  
2 to anybody if they want to. State have any objections  
3 by inclusion or exclusion? You did request a couple  
4 I did not put in purposefully.

5 MR. HAAG: I do not have any objection, Your  
6 Honor. I just note in passing it must have been a  
7 while since I've seen the unanimous verdict  
8 instruction because they've become politically  
9 correct in describing the foreman. Other than that, I  
10 have no comment. We have a presiding juror.

11 THE COURT: Oh, yeah. Sure.

12 MR. HAAG: I have no objection to the  
13 instructions.

14 THE COURT: Does the defense have any  
15 objection to the instructions?

16 MR. CHAVEZ: No objections.

17 THE COURT: Either by inclusion or  
18 exclusion?

19 MR. CHAVEZ: No objections either way.

20 MR. HAAG: My only question, Judge, is after  
21 which instruction are you doing 215?

22 THE COURT: After stricken testimony. It  
23 doesn't make a lot of difference frankly. If you want  
24 it someplace else--

25 MR. HAAG: That's fine.



1 THE COURT: --I'll put it someplace else.

2 MR. HAAG: That's fine.

3 THE COURT: You checked on your list, Mr.  
4 Haag, that you wanted motive and perhaps falsus in  
5 uno. I'll discuss them if you want to. If not--

6 MR. HAAG: I'll withdraw the request, Judge.  
7 I think if there's ever been a case that would  
8 support the falsus in uno instruction, this is the  
9 one, but I'm not going to push it. I know it's not  
10 favored, and the motive-- I presume that I'm still  
11 free to argue motive in this case?

12 THE COURT: Well, I think that-- You want  
13 to comment on that, Mr. Chavez? Motive is in itself  
14 the nature of the offense intent to evade or avoid  
15 levy or tax. That's the motive.

16 MR. HAAG: But I am going to be talking  
17 about -- a lot about motive in the sense of what  
18 would motivate-- There are other motives. I mean,  
19 I'm going to be talking about motive, but it doesn't  
20 seem to me that it makes much difference one way or  
21 the other. It's just argument.

22 THE COURT: I think that's true, and with  
23 respect to falsus in uno, I think the fact of that  
24 matter is as you suggest. It's not favored, and  
25 besides that it is almost directly pointed at Mr.

1           Wanta in the manner in which -- and I think that's  
2           inappropriate. That's why I'm not giving it, one of  
3           the reasons I'm not giving it. Anything else?

4                     MR. CHAVEZ: Nothing from the defense.

5                     THE COURT: State ready to argue?

6                     MR. HAAG: Yes, sir.

7                     THE COURT: Or have me read instructions and  
8           then argue.

9                     MR. HAAG: Yes.

10                    THE COURT: Mr. Chavez?

11                    MR. CHAVEZ: Yes, Judge. We're prepared.

12                    THE COURT: All I would like to have some  
13           idea of is, that's as much for your benefit as mine,  
14           is can you give me any indication as to how long  
15           you're going to argue so that I can cut -- if we need  
16           to cut for a break for the jury, I don't like to  
17           have-- I like to have the whole business straight  
18           through to be very honest about it, but the  
19           instructions my suspicion is going to take about  
20           twenty-five minutes to read, maybe twenty, and then  
21           if that's off of an hour and a half, that gives you  
22           each a little over a half an hour to argue on my hour  
23           and a half breaks. Is that within the realm of  
24           possibility?

25                    MR. HAAG: Yes, sir. I think it is.

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THE COURT: All right.

MR. CHAVEZ: Yes, Judge.

MR. HAAG: Are you saying-- Well, the only thing, Judge, rebuttal. I think that would be enough for the-- I can't guarantee that we'd be done with rebuttal argument.

THE COURT: No. That's all right. Rebuttal I don't care because-- At that point in time I don't care too much because at that point in time both the State and the defense have had an opportunity to argue when there's a break, so they both have-- I'm not breaking and giving them an opportunity to have heard only the State at that point, and that's my main concern. With that, bring the jury in.

MR. CHAVEZ: Judge, one thing real quick. Mr. Wanta pointed out that the Buick involved here is an '89 Buick, not an '88.

(Whereupon, the following proceedings were held within the presence of the jury:)

THE COURT: Members of the jury, the Court will now instruct you upon the principles of law which you are to follow in considering the evidence and in reaching your verdicts. You will have a copy, as I indicated to you, of these instructions with you

1 in the jury room should you choose to refer to them.  
2 They do in a variety of places talk about verdict.  
3 Verdict is something on each individual charge, so  
4 really it ends up being verdicts, but these  
5 instructions should be considered by you individually  
6 with respect to each of the verdicts that you have in  
7 each of the charges made.

8 In applying these instructions keep in  
9 mind the following. First, you should consider all of  
10 the instructions.

11 Second, you should consider the  
12 instructions as a whole and apply them to the  
13 evidence.

14 Third, the fact that the instructions  
15 are given in a particular order does not mean that  
16 one is more important than another.

17 Take the law as it is given in the  
18 Judge's instructions and apply that law to the facts  
19 in the case which are properly proven by the  
20 evidence. Consider only the evidence received during  
21 this trial and the law as given to you by these  
22 instructions and from these alone guided by your  
23 soundest reason and best judgment reach your verdict.

24 If any member of the jury has an  
25 impression of my opinion as to whether the defendant

1 is guilty or not guilty, disregard such impression  
2 entirely and decide the issues of fact solely as you  
3 view the evidence. You, the jury, are the sole judges  
4 of the facts, and the Court is the judge of the law  
5 only.

6 First of all, what is evidence?  
7 Evidence is first the sworn testimony of witnesses  
8 both on direct and cross-examination regardless of  
9 who called the witness.

10 Second, evidence is the exhibits the  
11 Court has received into the trial record.

12 Third, any facts to which the lawyers  
13 have agreed or stipulated or which the Court has  
14 directed you to find.

15 Anything you may have seen or heard  
16 outside of the courtroom is not evidence. You are to  
17 decide the case solely on the evidence offered and  
18 received at trial.

19 An exhibit becomes evidence only when  
20 received by the Court. An exhibit marked for  
21 identification and not received is not evidence. An  
22 exhibit received, however, is evidence whether or not  
23 it goes with you back to the jury room.

24 Disregard any question-- Disregard  
25 entirely any question that the Court did not allow to

1 be answered. Do not guess what the witness's answer  
2 to such question might have been, and if the question  
3 implied that certain facts were true, disregard any  
4 such implication and draw no inference from the  
5 question.

6 Remarks of the attorneys are not  
7 evidence. If any remarks imply the existence of  
8 certain facts not in evidence, disregard any such  
9 implication and draw no inference from the remarks.

10 Consider carefully the closing  
11 arguments of the attorneys, but their arguments and  
12 conclusions and opinions are not evidence. Draw your  
13 own conclusions and your own inferences from the  
14 evidence and decide upon your verdicts according to  
15 the evidence under the instructions given you by the  
16 Court.

17 During the trial the Court ordered  
18 some testimony to be stricken. You are to disregard  
19 all such stricken testimony.

20 Attorneys for each side have the right  
21 and duty to object to what they consider are improper  
22 questions asked of witnesses and to the admission of  
23 other evidence which they believe is not properly  
24 admissible. No adverse inference is to be drawn from  
25 any such objection.

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By allowing testimony or other evidence to be received over the objection of counsel, the Court is not indicating any opinion as to the weight of the evidence. You jurors are the sole judges of the credibility of the witnesses and the weight of the evidence.

The information in this case charges six separate offenses, and I read them to you at the outset, voir dire, I believe last Monday. They read as follows.

Count 1, on or about June 11th, 1991, at the City of Madison, County of Dane, Leo E. Wanta did intentionally render a false and fraudulent Wisconsin individual income tax return for the calendar year 1988 with the intent then and there to evade the income tax due and owing to the State of Wisconsin by reporting in said income tax return zero taxable income for said calendar year, whereas said defendant had a net taxable income for the calendar year of approximately \$166,372 upon which there was owing to the State of Wisconsin a net income tax of approximately \$10,249, all contrary to Section 71.83(2)(b)1 of the Wisconsin Statutes.

The second count of the Information alleges the same statutory offense, that on or about

1 June 11th, 1991, at the City of Madison, County of  
2 Dane, Leo E. Wanta did intentionally render a false  
3 and fraudulent Wisconsin individual income tax return  
4 for the year 1989 with the intent then and there to  
5 evade the income tax due and owing to the State of  
6 Wisconsin by reporting in said income tax return zero  
7 taxable income for the said calendar year, whereas  
8 said defendant had a net taxable income for said  
9 calendar year of approximately \$63,310 upon which  
10 there was owing to the State of Wisconsin a net  
11 income tax of approximately \$3,880, all contrary to  
12 Section 71.83(2)(b)1 of the Wisconsin Statutes.

13 Count 3 alleges that on or about  
14 September 21st of 1988 the defendant, Leo Wanta, did  
15 intentionally conceal property upon which a levy was  
16 authorized: to wit, the defendant had purchased a  
17 1988 Buick Electra station wagon automobile in the  
18 name of the New Republic/U.S.A. Financial Group  
19 Limited with intent to evade the collection of a tax  
20 administered by the Wisconsin Department of Revenue  
21 contrary to Section 71.83(2)(b)3 of the statutes of  
22 the State of Wisconsin.

23 Count 4 alleges the same statutory  
24 offense. It factually alleges that on October 26 of  
25 1988, Leo E. Wanta intentionally concealed property



1 upon which a levy was authorized: to wit, the  
2 defendant did pay off two mortgages on his property  
3 at 2101 North Edgewood, Appleton, Wisconsin, in the  
4 amount of \$85,103.82 and had new mortgages assigned  
5 to the New Republic/U.S.A. Financial Group Limited  
6 with intent to evade the collection of a tax  
7 administered by the Wisconsin Department of Revenue  
8 contrary to 71. -- Section 71.83(2)(b)3 of the  
9 statutes of the State of Wisconsin.

10 Count 5 alleges that on December 2nd  
11 of 1988, Leo E. Wanta intentionally concealed  
12 property upon which a levy was authorized: to wit,  
13 the defendant did purchase furniture in the amount of  
14 \$4,525 in the name of New Republic/U.S.A. Financial  
15 Group Limited for use in his home at 2101 North  
16 Edgewood, Appleton, Wisconsin, with intent to evade  
17 the collection of a tax administered by the Wisconsin  
18 Department of Revenue contrary to Section  
19 71.83(2)(b)3 of the statutes of the State of  
20 Wisconsin.

21 Count 6 of that same information  
22 alleges that on or about April 19th, 1989, Leo E.  
23 Wanta intentionally concealed property upon which a  
24 levy was authorized: to wit, the defendant did pay  
25 off a Ford Motor Credit Company loan in the amount of

1           \$7,258.28 made to the defendant's son, Brian M.  
2           Wanta, and secured by a 1986 Ford Ranger pickup truck  
3           and did transfer title to said truck to the New  
4           Republic/U.S.A. Financial Group Limited with intent  
5           to evade the collection of a tax administered by the  
6           State of--   Strike that. Administered by the  
7           Wisconsin Department of Revenue contrary to Section  
8           71.83(2)(b)3 of the statutes.

9                         To each of those charges and to all of  
10           them, Mr. Wanta has entered pleas of not guilty which  
11           means the State must prove every element of each  
12           offense charged beyond a reasonable doubt.

13                         That Information which I read is  
14           nothing more than a written, formal accusation  
15           against Mr. Wanta charging the commission of one or  
16           more criminal acts. You are not to consider it as  
17           evidence against Mr. Wanta in any way, and it does  
18           not raise any inference of guilt.

19                         Filing a false or fraudulent income  
20           tax return as defined by Section 71.82(2)(b)1 of the  
21           Wisconsin Statutes is committed by a person -- this  
22           relates to both Counts 1 and 2 of the Information --  
23           is committed by a person who files a false income tax  
24           return with intent to evade the payment of any tax  
25           required to be paid by the law.

1                   Before you may find the defendant  
2 guilty of this offense -- these offenses, two of  
3 them, either of them, the State must prove by  
4 evidence which satisfies you beyond a reasonable  
5 doubt that the following three elements were present.

6                   First element requires that the  
7 defendant filed an income tax return.

8                   Second element requires that the  
9 return filed by the defendant was false. False means  
10 that one or more statements in the tax return were  
11 materially untrue, that is, that the true and actual  
12 income of the defendant was more than that shown by  
13 him on the return.

14                   The third element requires that the  
15 defendant filed a false income tax return with intent  
16 to evade the payment of income taxes. The term  
17 "intent to evade payment of income taxes" means that  
18 the defendant had the mental purpose to evade the  
19 payment of income taxes which were due.

20                   You cannot look into a person's mind  
21 to find intent. You may find-- You may determine  
22 intent directly or indirectly from all of the  
23 evidence concerning this offense. You may consider  
24 any statements or conduct of the defendant which  
25 indicates a state of mind. You may find intent to

1 evade payment of taxes from such conduct or  
2 statements, but you are not required to do so.

3 If you are satisfied beyond a  
4 reasonable doubt that the defendant filed an income  
5 tax return, that the income tax return was false, and  
6 that the defendant filed the return with the intent  
7 to evade taxes due, you should find the defendant  
8 guilty.

9 If you are not so satisfied, you must  
10 find the defendant not guilty.

11 That instruction, as I indicated,  
12 applies individually to each of Counts 1 and 2.

13 Counts 3, 4, 5, and 6 are allegations  
14 that Mr. Wanta violated Section 71.83(2)(b)3 of the  
15 statutes. Tax evasion as defined in that section of  
16 the Wisconsin Statutes is committed by a person who  
17 conceals or aids in concealing any property upon  
18 which a levy is authorized with intent to evade the  
19 collection of any tax administered by the Wisconsin  
20 Department of Revenue.

21 Before you may find the defendant  
22 guilty of this offense, the State must prove by  
23 evidence which satisfies you beyond a reasonable  
24 doubt that the following two elements were present.

25 First element requires that the

1 defendant concealed property upon which a levy was  
2 authorized. The term "conceal" means to take some  
3 action to prevent discovery of or knowledge of the  
4 defendant's ownership interest in the property. The  
5 term "property" includes both real and personal  
6 property.

7 The second element requires that the  
8 defendant concealed such property with intent to  
9 evade collection of a tax administered by the  
10 Wisconsin Department of Revenue. The term "intent to  
11 evade collection of a tax" means that the defendant  
12 had the mental purpose to evade the collection of  
13 taxes which were due.

14 You cannot look in a person's mind to  
15 find intent. You may determine intent directly or  
16 indirectly from all of the evidence concerning this  
17 offense. You may consider any statements or conduct  
18 of the defendant which indicates state of mind. You  
19 may find intent to evade collection of taxes from  
20 such conduct or statements, but you are not required  
21 to do so.

22 If you are satisfied beyond a  
23 reasonable doubt that the defendant concealed any  
24 property upon which a levy was authorized and that  
25 the defendant concealed the property with the intent

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to evade the collection of taxes due, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

That instruction, as I indicated, applies to each of the third, fourth, fifth, and sixth charges in the Information individually.

In reaching your verdict, examine the evidence with care and caution. Act with judgment, reason, and prudence.

Defendants are not required to prove their innocence. The law presumes every person charged with the commission of an offense to be innocent. This presumption requires a finding of not guilty unless in your deliberations you find it is overcome by evidence which satisfies you beyond a reasonable doubt that the defendant is guilty.

The burden of establishing every fact necessary to constitute guilt is upon the State. Before you can return a verdict of guilty, the evidence must satisfy you beyond a reasonable doubt that the defendant is guilty.

If you can reconcile the evidence upon any reasonable hypothesis consistent with the defendant's innocence, you should do so and return a

1 verdict of not guilty.

2 The term "reasonable doubt" means a  
3 doubt based upon reason and common sense. It is a  
4 doubt for which a reason can be given arising from a  
5 fair and rational consideration of the evidence or  
6 lack of evidence. It means such a doubt as would  
7 cause a person of ordinary prudence to pause or  
8 hesitate when called upon to act in the most  
9 important affairs of life.

10 A reasonable doubt is not a doubt  
11 which is based upon mere guesswork or speculation. A  
12 doubt which arises merely from sympathy or from fear  
13 to return a verdict of guilt is not a reasonable  
14 doubt. A reasonable doubt is not a doubt such as may  
15 be used to escape the responsibility of a decision.

16 While it is your duty to give the  
17 defendant the benefit of every reasonable doubt, you  
18 are not to search for doubt. You are to search for  
19 the truth.

20 It is the duty of the jury to  
21 scrutinize and to weigh the testimony of witnesses  
22 and to determine the effect of the evidence as a  
23 whole. You are the sole judges of the credibility of  
24 the witnesses and to the weight and credit to be  
25 given to their testimony.

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In determining the weight and credit you should give to the testimony of each witness, you should consider their interest or lack of interest in the result of this trial; their conduct, appearance, and demeanor on the witness stand; their bias or prejudice, if any has been shown; the clearness or lack of clearness of their recollections; their opportunity for observing and knowing the matters and things testified to by them, and the reasonableness of their testimony.

You should also take into consideration the apparent intelligence of each witness, the possible motives for falsifying, and all other facts and circumstances appearing on the trial which tend either to support or to discredit their testimony and then give to the testimony of each witness such weight and credit as you believe it fairly entitled to receive.

Under the law a defendant is a competent witness, and you should not discredit his testimony merely because he is charged with these offenses. The defendant's testimony should be weighed as the testimony of any other witness. Consideration of interest, manner, appearance, and other matters bearing upon credibility apply to the defendant in



1 common with all witnesses.

2 The weight of the evidence is not to  
3 be decided merely according to the number of  
4 witnesses on each side. You may find that the  
5 testimony of one witness is entitled to greater  
6 weight than that of another witness or even of  
7 several other witnesses, and you may give it such  
8 weight in considering your verdict.

9 In weighing the evidence you may take  
10 into account matters of your common knowledge and  
11 your observations and experiences in the affairs of  
12 life.

13 That, ladies and gentlemen, will  
14 conclude my remarks for the moment. After counsel  
15 have made their closing arguments, I will have a  
16 couple of further brief instructions for you. Now I  
17 call upon Mr. Haag for his closing arguments.

18 MR. HAAG: Thank you, Your Honor. May it  
19 please the Court, Mr. Chavez, ladies and gentlemen,  
20 before I say anything else, let me thank you for your  
21 patience. I know how difficult it must be to be  
22 sitting in another room when there are activities  
23 going on in this room that you're not aware of, and  
24 the law requires that you not be made aware of them,  
25 and I know that that can be frustrating, and I

1 appreciate the patience that you've shown not only  
2 during those periods, not only during the time when  
3 you've been out of the courtroom, but particularly  
4 also the patience and the consideration that you've  
5 given to all of the witnesses in this case, everyone  
6 that was put on by the State of Wisconsin and Mr.  
7 Wanta too. Every witness deserves the kind of  
8 attention that this jury has given them, and I thank  
9 you for that.

10 When we started this trial, we told  
11 you -- the State of Wisconsin told you that we were  
12 going to be taking you on a trail, a money trail, a  
13 trail that would show in various ways the defendant's  
14 motive for filing false and fraudulent income tax  
15 returns, but we brought back to your attention on  
16 several occasions in that opening statement the fact  
17 that this was, in fact, a tax case; that although  
18 there would be evidence in the record to show a flow  
19 of money of a great deal of money, there would be  
20 evidence in the record to suggest motives for the  
21 procurement of that money, there would be evidence in  
22 the record to suggest motives for the defendant to  
23 have taken the actions that he took both with regard  
24 to the money -- the obtaining of the money and with  
25 regard to failing to report one red cent of it on his