

Timothy Gossfeld - 2/15/2006

IN THE DISTRICT COURT  
OF TARRANT COUNTY, TEXAS  
67TH JUDICIAL DISTRICT

---

GAMAL ABDEL-HAFIZ,

Plaintiff,

vs.

ABC, INC., ABC NEWS, INC.,  
ABC NEWS HOLDING COMPANY,  
INC., DISNEY ENTERPRISES,  
INC., WFAA-TV, L.P., WFAA  
OF TEXAS, INC., BELO CORP.,  
CHARLES GIBSON, BRIAN ROSS,  
ROBERT WRIGHT AND JOHN  
VINCENT,

Defendants.

---

Cause No.

067 203396 03

VIDEOTAPED DEPOSITION OF  
TIMOTHY F. GOSSFELD  
Washington, D.C.

Wednesday, February 15, 2006

Job No.: 22-72192

Pages 1 through 76

Reported by: John L. Harmonson, RPR



**LEGALINK**

A WORDWAVE COMPANY

LegalLink Dallas  
4144 N. Central Expressway, Suite 450  
Dallas, TX 75204

tel (214) 720-4567  
tel (800) 966-4567  
fax (214) 720-4503

www.legalink.com

GLOBAL COURT REPORTING • LEGAL VIDEOGRAPHY • TRIAL SERVICES

Page 1	Page 3
<p style="text-align: center;">IN THE DISTRICT COURT OF TARRANT COUNTY, TEXAS 67TH JUDICIAL DISTRICT</p> <p>GAMAL ABDEL-HAFIZ, ) Plaintiff, ) Cause No. vs. ) 067 203396 03 ABC, INC., ABC NEWS, INC., ) ABC NEWS HOLDING COMPANY, ) INC., DISNEY ENTERPRISES, ) INC., WFAA-TV, L.P., WFAA ) OF TEXAS, INC., BELO CORP., ) CHARLES GIBSON, BRIAN ROSS, ) ROBERT WRIGHT AND JOHN ) VINCENT, ) Defendants. )</p> <p style="text-align: center;">VIDEOTAPED DEPOSITION OF TIMOTHY F. GOSSFELD Washington, D.C. Wednesday, February 15, 2006</p> <p>Job No.: 22-72192 Pages 1 through 76 Reported by: John L. Harmonson, RPR</p>	<p style="text-align: center;">APPEARANCES</p> <p>ON BEHALF OF PLAINTIFF GAMAL ABDEL-HAFIZ: JEFFREY N. KAITCHER, ESQUIRE Loe, Warren, Rosenfield, Kaitcher &amp; Hibbs, P.C. 4420 West Vickery Boulevard P.O. Box 100609 Fort Worth, Texas 76185-0609 (817)377-0060</p> <p>ON BEHALF OF DEFENDANTS ABC, INC., ABC NEWS, INC., ABC NEWS HOLDING COMPANY, INC., CHARLES GIBSON, BRIAN ROSS, WFAA-TV, L.P., WFAA OF TEXAS, INC. AND BELO CORP.: CHARLES L. BABCOCK, ESQUIRE Jackson Walker, LLP 901 Main Street Suite 6000 Dallas, Texas 75202 (214)953-6000</p> <p>ON BEHALF OF DEFENDANTS ROBERT WRIGHT AND JOHN VINCENT: PAUL ORFANEDES, ESQUIRE Judicial Watch 501 School Street, S.W. Suite 500 Washington, D.C. 20024 (202)646-5172</p> <p>ON BEHALF OF THE FEDERAL BUREAU OF INVESTIGATION: N. JOHN BENSON, JR., ESQUIRE Federal Bureau of Investigation Office of the General Counsel 935 Pennsylvania Avenue, N.W. Washington, D.C. 20535 (202)220-9323</p>
Page 2	Page 4
<p>Videotaped Deposition of: TIMOTHY F. GOSSFELD</p> <p>Held at the offices of: COVINGTON &amp; BURLING 1201 Pennsylvania Avenue, N.W. Washington, D.C. 20004</p> <p>Taken pursuant to the Texas Rules of Civil Procedure, by notice, before John L. Harmonson, Registered Professional Reporter, Notary Public in and for the District of Columbia, who officiated in administering the oath to the witness.</p>	<p>ALSO PRESENT: GAMAL ABDEL-HAFIZ, Plaintiff ANTONIO TROPEANO, Videographer</p>

Page 5	Page 7
<p>1 EXAMINATION INDEX</p> <p>2 PAGE</p> <p>3 EXAMINATION BY MR. KAITCHER ..... 7</p> <p>4 EXAMINATION BY MR. BABCOCK ..... 35</p> <p>5 EXAMINATION BY MR. KAITCHER ..... 60</p> <p>6 EXAMINATION BY MR. BABCOCK ..... 69</p> <p>7</p> <p>8 * * * * *</p> <p>9</p> <p>10 EXHIBIT INDEX</p> <p>11 PAGE</p> <p>12</p> <p>13</p> <p>14 Exhibit No. 11A ..... 50</p> <p>15 Exhibit No. 40 ..... 37</p> <p>16 Exhibit No. 41 ..... 58</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 MR. ORFANEDES: Paul Orfanedes for Agent</p> <p>2 Wright and retired Agent Vincent.</p> <p>3 MR. BENSON: John Benson, FBI.</p> <p>4 THE VIDEOGRAPHER: The court reporter today</p> <p>5 is John Harmonson of LegaLink Dallas.</p> <p>6 Would the reporter please swear in the</p> <p>7 witness.</p> <p>8 * * *</p> <p>9 TIMOTHY F. GOSSFELD,</p> <p>10 after having been first duly sworn, was examined and</p> <p>11 did testify under oath as follows:</p> <p>12 * * *</p> <p>13 EXAMINATION BY MR. KAITCHER:</p> <p>14 Q. Could you state your name, please, sir.</p> <p>15 A. Timothy F. Gossfeld.</p> <p>16 Q. And, Mr. Gossfeld, are you employed?</p> <p>17 A. Yes, sir.</p> <p>18 Q. How are you employed?</p> <p>19 A. I'm a special agent with the FBI.</p> <p>20 Q. All right. And do you have a particular</p> <p>21 position right now with the FBI?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What is that particular position?</p> <p>24 A. Chief of the Iraq unit of the</p> <p>25 Counterterrorism Division.</p>
Page 6	Page 8
<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins Tape No. 1</p> <p>3 in the deposition of Timothy Gossfeld, in the</p> <p>4 matter of Gamal Abdel-Hafiz v. ABC, Inc., et al,</p> <p>5 in the District Court for Tarrant County, Texas,</p> <p>6 67th Judicial District, Case No. 067 203396 03.</p> <p>7 Today's date is February 15, 2006. The</p> <p>8 time is 12:26 p.m.</p> <p>9 The video operator today is Antonio</p> <p>10 Tropeano of LegaLink Dallas.</p> <p>11 The video deposition is taking place at the</p> <p>12 office of Covington &amp; Burling, 1201 Pennsylvania</p> <p>13 Avenue, Washington, D.C. 20004, and was noticed</p> <p>14 by Chip Babcock, counsel for the defendants.</p> <p>15 MR. BABCOCK: No, actually not this one.</p> <p>16 MR. KAITCHER: No, this is actually mine.</p> <p>17 THE VIDEOGRAPHER: Noticed by Jeffrey</p> <p>18 Kaitcher, counsel for the plaintiff.</p> <p>19 Would the counsel please identify</p> <p>20 themselves and state whom they represent.</p> <p>21 MR. KAITCHER: My name is Jeff Kaitcher,</p> <p>22 and I represent Gamal Abdel-Hafiz.</p> <p>23 MR. BABCOCK: Charles Babcock representing</p> <p>24 all of the defendants except for Agent Wright and</p> <p>25 retired Agent Vincent.</p>	<p>1 Q. And how long have you been in that</p> <p>2 position?</p> <p>3 A. Approximately eight months.</p> <p>4 Q. And what office are you assigned to</p> <p>5 currently?</p> <p>6 A. The Counterterrorism Division of the FBI.</p> <p>7 Q. I'm sorry. That was bad. Geographically,</p> <p>8 where are you? Where do you work out of?</p> <p>9 A. In Northern Virginia.</p> <p>10 Q. Okay. And you've had that job for the last</p> <p>11 eight months?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And prior to that time, what was your</p> <p>14 position with the FBI?</p> <p>15 A. I was Supervisory Senior Resident Agent in</p> <p>16 the North Suburban Resident Agency of the Chicago</p> <p>17 office of the FBI.</p> <p>18 Q. And how long did you have that position?</p> <p>19 A. Approximately a year and a couple of</p> <p>20 months. A little over a year.</p> <p>21 Q. And what were your duties in that position?</p> <p>22 A. I supervised a squad of Bureau</p> <p>23 investigators.</p> <p>24 Q. Okay. And prior to that time, how were you</p> <p>25 employed with the FBI?</p>

Page 9	Page 11
<p>1 A. I was also a supervisor with the FBI in the 2 Chicago office. 3 Q. How long were you employed as a supervisor 4 in the Chicago office of the FBI? 5 A. Since January of 1998. 6 Q. And you held that particular job for about 7 five years, possibly? 8 A. Yes. I was in the Chicago office for a 9 little over seven years, I believe, in total. 10 Q. Okay. And that was prior to moving to 11 northern Virginia? 12 A. Yes, sir. 13 Q. And are you familiar with -- Well, let me 14 ask you a question. Just in general, I don't need to 15 go into details, but in general, what were your duties 16 when you were a supervisory agent in Chicago? 17 A. I was the supervisor of Squad CT1 when I 18 first arrived in Chicago, which was an international 19 terrorism squad. 20 Q. And how long did you do that? 21 A. It was approximately four years. 22 Q. How long have you worked for the FBI? 23 A. 22 years and ten days. 24 MR. BABCOCK: Give or take. 25 EXAMINATION BY MR. KAITCHER:</p>	<p>1 A. Yes, sir, there was a particular case we 2 were working on. And the investigation of that case 3 took several personnel from Chicago to the Dallas FBI 4 office. 5 Q. Do you remember who those personnel were? 6 A. Yes, sir. 7 Q. Who were they? 8 A. Bob Wright accompanied me. John Vincent 9 also went along. And I believe there was one, 10 possibly two other agents from the squad. 11 Q. Okay. Now, if I get into areas I'm not 12 supposed to get into and you don't feel comfortable, 13 either tell me, or the FBI has a lawyer here who will 14 tell me if I'm running afoul of this. 15 A. Yes, sir. 16 Q. I'm not trying to pry, but I just want to 17 make sure I get whatever evidence we can get into in 18 front of the jury. If we can't go further, somebody 19 just please tell me and I'll stop and change tactics 20 or change my area of inquiry. 21 MR. BABCOCK: Do I get to do that, too? 22 MR. KAITCHER: You can do it as well. 23 Since you're not the judge or jury, whatever you 24 want to do is fine. 25 EXAMINATION BY MR. KAITCHER:</p>
Page 10	Page 12
<p>1 Q. And are you familiar with Robert Wright? 2 A. Yes, sir. 3 Q. How did you become familiar with Robert 4 Wright? 5 A. Robert Wright was an agent on Squad CT1 6 when I first arrived in Chicago. 7 Q. And did he work directly under you? 8 A. Yes, sir. 9 Q. And are you familiar with former Special 10 Agent John Vincent? 11 A. Yes, sir. 12 Q. How are you familiar with him? 13 A. In the same capacity. He was also an agent 14 on Squad CT1 when I arrived in Chicago January 1998. 15 Q. All right. Are you familiar with the 16 plaintiff in this case, Special Agent Gamal 17 Abdel-Hafiz? 18 A. Yes, sir. 19 Q. How did you become familiar with him? 20 A. Sir, I first met Gamal, I believe it was in 21 December of 1998. It was late 1998, when he was 22 assigned to the Dallas office of the FBI. 23 Q. And how was it that you became familiar 24 with him? Was there a particular case you were 25 working on, or what?</p>	<p>1 Q. But in any event, you and Bob Wright and 2 John Vincent went to Dallas in December of 1998; is 3 that right? 4 A. Sir, I believe it was December. It might 5 have been November, but I recall it being late 1998. 6 Q. Okay. And what was the purpose of that 7 particular trip? 8 A. Sir, the purpose of the trip was to work 9 with the FBI agents in Dallas in pursuing what 10 appeared at that time to be the next logical step in 11 the investigation we were pursuing. 12 Q. Okay. And how was it that you came into -- 13 I guess you came into personal contact with Special 14 Agent Abdel-Hafiz; is that right? 15 A. Yes, sir. 16 Q. How is it that you came in contact with 17 him? Was he assigned to assist you, or was he a 18 liaison, or what? 19 A. Sir, he was an agent assigned to the squad 20 in Dallas that we were working with in this endeavor, 21 and we met him in that capacity and we worked with him 22 in that capacity. 23 Q. Okay. Did you have any problems in your 24 working with Special Agent Abdel-Hafiz, with him? 25 A. No, sir.</p>

<p style="text-align: right;">Page 13</p> <p>1 Q. Okay. How would you describe his 2 relationship with you in terms of being cooperative 3 and professional, things of that nature? 4 A. He was very professional, very cooperative. 5 He tended to all of the requests that we had. He 6 appeared to go out of his way to bring other things to 7 our attention that might have been helpful in our work 8 in Dallas. And all in all, he was very accommodating. 9 Q. Without necessarily going into specifics of 10 the investigation, what sort of things would he try to 11 help you with in general? 12 A. Sir, he brought files to our attention. 13 There may have been evidence associated with those 14 files that he also brought to our attention. But it 15 was administrative work conducted within the office. 16 Q. Who was his supervisor in the Dallas 17 office, if you know? 18 A. Sir, I don't recall exactly who his 19 supervisor was at that time. I have a vague 20 recollection that there might have been an acting 21 supervisor at that time. I -- I really can't tell you 22 right now. 23 Q. Do you remember who was the Agent in Charge 24 of the Dallas office? 25 A. Sir, I know who the Agent in Charge was in</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Sir, he and Ron Patton had a telephone 2 conference call from Dallas with me in Chicago. 3 Q. Who initiated that call? Do you know? 4 A. No, sir. Mechanically, I can't recall if I 5 returned a call to them or if they called me out of 6 the blue. 7 Q. And what was the general substance of that 8 call? 9 A. Sir, the three of us discussed a proposal 10 for Gamal to consensually monitor a conversation with 11 other individuals. 12 Q. Okay. Was Special Agent Robert Wright 13 involved in that at that time? 14 A. He was not involved in the telephone call. 15 Q. Okay. Subsequently, did Special Agent 16 Wright begin to be involved in that process? 17 MR. BABCOCK: Object to the form of the 18 question. 19 MR. KAITCHER: I'll rephrase the question. 20 EXAMINATION BY MR. KAITCHER: 21 Q. With respect to events that took place in 22 the spring of 1999, did Special Agent Wright get 23 involved? 24 A. Yes, sir. 25 Q. How did he get involved?</p>
<p style="text-align: right;">Page 14</p> <p>1 the spring of 1999, and I know who the supervisor was 2 in the spring of 1999, but I don't recall that 3 specific trip. I don't think we met with managers. 4 Q. Okay. In the spring of 1999, who was the 5 Agent in Charge of the Dallas office? 6 A. Danny Defenbaugh. 7 Q. And who was Gamal Abdel-Hafiz's supervisor? 8 A. Ron Patton. 9 Q. So you went to Dallas in November or 10 December of 1998. You met with him, had a good 11 meeting, shared information, shared resources, that 12 type of thing. Is that correct? 13 A. Yes, sir. 14 Q. Did Special Agent Abdel-Hafiz bring any 15 particular talents to what you all were doing? 16 A. No, sir. 17 Q. Okay. What was the next contact, if any, 18 that you can remember with Gamal, either in person or 19 by telephone or whatever? 20 A. Sir, I think the next contact I had with 21 him was in the spring of 1999. 22 Q. And do you remember what the reason for 23 that contact was in the spring of 1999? 24 A. Yes, sir. 25 Q. What was that?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Sir, the day before this telephone 2 conference call, Bob Wright gave me an update on the 3 case which was related to the subject matter of the 4 conference call. 5 Q. And what did Mr. Wright tell you? 6 A. He told me that he had received a telephone 7 call from Gamal and that he and Gamal had had a 8 conversation concerning the investigation that was at 9 hand, and that the subject of consensually monitoring 10 some individuals came up. 11 Q. Did he seem distressed? Special Agent 12 Wright, did he seem distressed or agitated about this? 13 A. No, sir. 14 Q. Okay. What happened next, to your 15 recollection, after your talk with Patton and Gamal? 16 A. The following day I became aware of another 17 conference call that had occurred between parties in 18 Dallas and parties in Chicago in the U.S. Attorney's 19 Office that I did not participate in. 20 Q. Who made you aware of that call? 21 A. Sir, I was made aware of plans to have that 22 call before it actually occurred, which was on 23 Thursday morning of that week. And I learned of the 24 events of the call after it had occurred on Thursday 25 morning.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q. Who related those events to you?</p> <p>2 A. Bob Wright related the plans for the call</p> <p>3 before it actually occurred. He made me aware of the</p> <p>4 anticipated conference call. And Bob Wright and John</p> <p>5 Vincent and Mark Flessner made me aware of the events</p> <p>6 of the call after it occurred.</p> <p>7 Q. And what did they say about the events of</p> <p>8 the call?</p> <p>9 A. Sir, they said they had discussed the same</p> <p>10 proposal, that Gamal consensually monitor individuals</p> <p>11 he was in contact with regarding the investigation.</p> <p>12 Q. And did he relate to you that there was a</p> <p>13 problem with this? Special Agent Wright.</p> <p>14 A. Yes, sir.</p> <p>15 Q. What was the problem that he related to</p> <p>16 you?</p> <p>17 A. In Bob's opinion, the problem that he</p> <p>18 related to me was that from his perspective, Gamal was</p> <p>19 not interested in consensually monitoring the</p> <p>20 individuals that were being proposed for monitoring.</p> <p>21 Q. Now, whose investigation was this? Was</p> <p>22 this your office's, the Chicago office's, or was it</p> <p>23 the Dallas office?</p> <p>24 A. Sir, truly it's the FBI's investigation</p> <p>25 that was -- that maintained an office of origin in</p>	<p style="text-align: right;">Page 19</p> <p>1 believe it was a telephone conversation, with AUSA</p> <p>2 Mark Flessner that afternoon, that Thursday afternoon,</p> <p>3 when he was advising me that he was taking this</p> <p>4 issue -- bringing it to the attention of the U.S.</p> <p>5 Attorney in Chicago.</p> <p>6 Q. And did Attorney Flessner explain why he</p> <p>7 was doing that?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Why was that?</p> <p>10 A. Sir, he told me, and I clearly understood</p> <p>11 that it was his opinion and that of his team of AUSAs</p> <p>12 that they thought it would be a prudent move for Gamal</p> <p>13 to consensually monitor the individual or individuals</p> <p>14 that were being proposed for monitoring.</p> <p>15 Q. Okay. And what happened after that? What</p> <p>16 was your next contact with any of these individuals</p> <p>17 concerning Gamal?</p> <p>18 A. Sir, that evening, Thursday evening, I had</p> <p>19 a personal meeting with the Special Agent in Charge in</p> <p>20 Chicago who informed me that she had received a call</p> <p>21 or a visit from the U.S. Attorney who had brought this</p> <p>22 to her attention.</p> <p>23 Q. And who was that?</p> <p>24 A. Kathleen McChesney.</p> <p>25 Q. Okay. And was she your boss or supervisor</p>
<p style="text-align: right;">Page 18</p> <p>1 Chicago. Administratively, it was a Chicago</p> <p>2 investigation.</p> <p>3 Q. And what were the difficulties that Special</p> <p>4 Agent Wright related to you?</p> <p>5 A. Sir, he was hoping that Gamal would engage</p> <p>6 in a consensually monitored conversation or series of</p> <p>7 conversations, and it was discussed during that</p> <p>8 Thursday conference call. And Gamal's reluctance to</p> <p>9 do that was discussed.</p> <p>10 Q. Did he tell you why Gamal was reluctant to</p> <p>11 do that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What did he say?</p> <p>14 A. Bob related to me that it was his</p> <p>15 impression that Gamal was not comfortable consensually</p> <p>16 monitoring the individuals that were being proposed</p> <p>17 for monitoring.</p> <p>18 Q. Did he tell you why Gamal was not</p> <p>19 comfortable?</p> <p>20 A. No, sir. He just said he was not</p> <p>21 comfortable, words to that effect, that he was not</p> <p>22 comfortable.</p> <p>23 Q. Okay. What happened after that with</p> <p>24 respect to this particular situation?</p> <p>25 A. Sir, I recall having a conversation, I</p>	<p style="text-align: right;">Page 20</p> <p>1 at the time as well?</p> <p>2 A. Yes, sir. She was the Special Agent in</p> <p>3 Charge of the FBI office in Chicago.</p> <p>4 Q. And what did Agent McChesney relate to you?</p> <p>5 A. That she and the U.S. Attorney thought that</p> <p>6 it would be an appropriate request of the Dallas FBI</p> <p>7 office to ask Gamal to consensually monitor the</p> <p>8 individuals that were being proposed for monitoring.</p> <p>9 Q. Now, you used the word "request." Why do</p> <p>10 you use the word "request"?</p> <p>11 A. Sir, because the initiative was a request.</p> <p>12 It was not a command or a directive or an order. It</p> <p>13 was a request, which was codified that evening and the</p> <p>14 next day in an electronic communication that went from</p> <p>15 the Chicago Field Office to the Dallas Field Office.</p> <p>16 Q. Okay. Who created that electronic</p> <p>17 communication?</p> <p>18 A. Sir, John Vincent and Bob Wright wrote the</p> <p>19 electronic communication.</p> <p>20 Q. Okay. And who has the ability to give</p> <p>21 Gamal an order to conduct this kind of monitoring?</p> <p>22 A. Sir, that would be a request for</p> <p>23 investigation which would come about in the course of</p> <p>24 a typical FBI investigation in a lead being sent to</p> <p>25 another field office asking or requesting that a</p>

<p style="text-align: right;">Page 21</p> <p>1 certain piece of investigation be conducted. That's  2 how we formally conduct investigations in the FBI. We  3 send a lead to that office.  4 That's what this was, a lead to the Dallas  5 FBI office for the investigation to be conducted.  6 Q. And who has the ability to -- I guess for  7 lack of a better word, I'll use the word order a  8 Special Agent like Gamal Abdel-Hafiz to perform the  9 particular duty that is requested of him?  10 A. Sir, it's a request from the Chicago FBI  11 office, which would have been made to the Dallas FBI  12 office, and the agents in Dallas would be under the  13 command structure of the Dallas management.  14 Q. So the Dallas management would make the  15 decision as to whether or not this particular action  16 takes place; is that right?  17 A. Yes, sir.  18 Q. After the electronic communication was  19 generated, what happened after that?  20 A. Sir, I recall another electronic  21 communication coming to the Chicago FBI office from  22 the Dallas FBI office.  23 Q. And do you remember what the substance was  24 of that communication?  25 A. Yes, sir.</p>	<p style="text-align: right;">Page 23</p> <p>1 recording were to occur between him and parties he was  2 familiar with. That was one issue.  3 A second issue was one raised by the Dallas  4 Special Agent in Charge in that it was his belief that  5 the community outreach advances that Gamal had made,  6 achieved, and hoped to continue in the future, might  7 suffer a setback should the monitoring be allowed to  8 occur.  9 Q. What do you mean by community outreach  10 advances?  11 A. Sir, the Dallas Special Agent in Charge let  12 us know that he held Gamal in high esteem in U.S.  13 government/FBI outreach efforts with the Arab-American  14 community in the Dallas area as well as outside the  15 Dallas area in the United States.  16 Q. Okay. And why was this important?  17 MR. BABCOCK: Object to the form.  18 EXAMINATION BY MR. KAITCHER:  19 Q. You can answer the question. I'll rephrase  20 it.  21 Was this an important issue?  22 A. It was very important for the Special Agent  23 in Charge in Dallas, as evidenced by the documentation  24 of it in the formal electronic communication.  25 Q. Do you know why it was important for the</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. What was it?  2 A. Sir, this was a notification from the  3 Dallas FBI office to the Chicago office that Gamal  4 would be willing to assist in the investigation and to  5 service the previous lead which had been sent down  6 from Chicago on the condition that the recording be  7 conducted overtly and not covertly.  8 Q. Okay. And do you know why that condition  9 was imposed or requested?  10 A. Yes, sir.  11 Q. Why was that?  12 A. I recall the EC saying something to the  13 effect --  14 Q. The EC is electronic communication?  15 A. Yes, sir. That coincided with my  16 understanding of the situation, which was brought to  17 my attention through discussions with the Dallas FBI  18 office management, that there were a couple of issues  19 that the Dallas FBI office had in having such a  20 recording proceed.  21 Q. Do you know what those issues were?  22 A. Yes, sir.  23 Q. What were they?  24 A. Sir, it was my understanding that Gamal  25 felt potential security issues arise if a covert</p>	<p style="text-align: right;">Page 24</p> <p>1 Agent in Charge in Dallas?  2 A. No, sir. I've never met the man. I  3 couldn't speak to that.  4 Q. Was that Mr. Defenbaugh?  5 A. Yes, sir.  6 Q. After the receipt of this electronic  7 communication back to you, which I guess made the  8 conditional acquiescence, I suppose, of the request,  9 what happened after that?  10 A. Sir, I know that Bob and John were not  11 pleased with that response from the Dallas FBI office.  12 I also know that the U.S. Attorney's Office was not  13 pleased with it. But the communication was followed  14 with another electronic communication from the Chicago  15 office to the Dallas office referencing the offer by  16 Gamal to overtly record the conversation. But this  17 communication requested the Dallas FBI office not to  18 proceed with an overt monitoring effort.  19 Q. Okay. And what happened after that?  20 A. Sir, that about covers the developments in  21 this overall investigation that I recall concerning  22 this particular aspect.  23 Q. Did you have any discussions with Agent  24 Wright or overhear any discussions that he was having  25 with other individuals about Gamal being of Muslim</p>

<p style="text-align: right;">Page 25</p> <p>1 heritage?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And when did those comments take place?</p> <p>4 A. Bob and John made a reference to that,</p> <p>5 either that Thursday evening or the following Friday</p> <p>6 morning in the construction of the electronic</p> <p>7 communication that came from Chicago to Dallas</p> <p>8 requesting that the covert monitoring occur.</p> <p>9 Q. And what was the reference they made?</p> <p>10 A. Sir, they made a reference to, as I</p> <p>11 mentioned before, how Gamal was uncomfortable with the</p> <p>12 consensual monitoring request, but they also threw in</p> <p>13 what I observed to be their belief that that was</p> <p>14 somehow tied into his Muslim heritage.</p> <p>15 Q. What was that belief? What statements did</p> <p>16 they make that led you to that conclusion that somehow</p> <p>17 his Muslim heritage entered into this process?</p> <p>18 A. Well, sir, it's been a few years, but the</p> <p>19 easiest way for me to describe it here today is that</p> <p>20 that conversation was completely divergent from the</p> <p>21 conversation I had two days earlier with Gamal and his</p> <p>22 supervisor over the exact same issue, the consensual</p> <p>23 monitoring issue, and Gamal's reluctance to proceed</p> <p>24 with consensual monitoring at that time.</p> <p>25 Q. What do you mean, it was completely</p>	<p style="text-align: right;">Page 27</p> <p>1 Agent Wright or Agent Vincent that they personally had</p> <p>2 a problem with the fact that Gamal was a Muslim?</p> <p>3 A. Yes, sir.</p> <p>4 Q. How did you get that impression?</p> <p>5 A. There was another conversation that I had</p> <p>6 with Bob and John in my office concerning that matter.</p> <p>7 Q. And about when was this?</p> <p>8 A. Sir, it was in the same time frame, but to</p> <p>9 this day I can't tell you exactly when it occurred in</p> <p>10 relation to this Tuesday, Wednesday, Thursday</p> <p>11 activity.</p> <p>12 Q. But it was somewhere in that time frame?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And what was related to you by Agents</p> <p>15 Wright and Vincent?</p> <p>16 A. Bob made a statement to me that went</p> <p>17 something to the effect that, "You know they're trying</p> <p>18 to get into the government."</p> <p>19 Q. When he says "they," who is "they"?</p> <p>20 A. Sir, that's exactly the response I had when</p> <p>21 I directed my statement back to Bob and John. "What</p> <p>22 are you talking about?" is what I recall then saying.</p> <p>23 And that's when Bob, with John standing</p> <p>24 next to him affirming Bob's response, said, "The</p> <p>25 Muslims," or "The Arab-Americans."</p>
<p style="text-align: right;">Page 26</p> <p>1 divergent?</p> <p>2 A. Because when I spoke with Gamal and Ron on</p> <p>3 Tuesday over their reluctance to have the consensual</p> <p>4 monitoring occur, there was no mention at all of</p> <p>5 religion in the conversation concerning consensual</p> <p>6 monitoring.</p> <p>7 Q. Okay. And what were their concerns on the</p> <p>8 issue of consensual monitoring?</p> <p>9 A. Sir, I understood the concerns being one of</p> <p>10 security, trustworthiness, and logic or prudence in</p> <p>11 the course of an investigation.</p> <p>12 Q. And these were the concerns of Gamal and</p> <p>13 his supervisor, Agent Patton?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And as related to you by Agents Wright and</p> <p>16 Vincent, how did that, as you say, completely diverge</p> <p>17 from what you had understood?</p> <p>18 A. Because on Thursday evening or Thursday,</p> <p>19 afternoon after that Thursday morning conference call</p> <p>20 that I did not participate in, they put the subject of</p> <p>21 religion on the table. They made that a part of the</p> <p>22 same conversation concerning consensual monitoring.</p> <p>23 The conversation that I recalled having with Gamal and</p> <p>24 Ron two days earlier, religion was not discussed.</p> <p>25 Q. Okay. Did you get any indication from</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Were trying to infiltrate the government?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you respond to that statement?</p> <p>4 A. Yes, sir.</p> <p>5 Q. What did you say?</p> <p>6 A. I said something to the effect that I</p> <p>7 thought they were full of beans or completely off</p> <p>8 base.</p> <p>9 Q. Did Agent Wright or Agent Vincent respond</p> <p>10 to that?</p> <p>11 A. No, sir, not that I can recall.</p> <p>12 Q. Did you ever hear or ever get any</p> <p>13 information from either Agent Wright or Vincent that</p> <p>14 they were going to alter or change their rendition of</p> <p>15 events about why the monitoring did not take place?</p> <p>16 MR. BABCOCK: Read that question back.</p> <p>17 (Whereupon, the record was read back by the</p> <p>18 Reporter as follows:</p> <p>19 QUESTION: Did you ever hear or ever get</p> <p>20 any information from either Agent Wright or</p> <p>21 Vincent that they were going to alter or change</p> <p>22 their rendition of events about why the</p> <p>23 monitoring did not take place?)</p> <p>24 THE WITNESS: No, sir.</p> <p>25 EXAMINATION BY MR. KAITCHER:</p>



Page 29

1 Q. Okay. Were you surprised by the comment  
2 that Agent Wright made to you about Muslims or  
3 Arab-Americans trying to infiltrate the government?  
4 A. Yes, sir.  
5 Q. Why were you surprised?  
6 A. I thought it was a ridiculous comment; that  
7 it was baseless, groundless, and completely  
8 non-pertinent.  
9 Q. Was this statement made in the context  
10 particularly of Special Agent Gamal Abdel-Hafiz?  
11 A. Yes, sir.  
12 Q. Did Special Agent Wright make any  
13 statements to you that called -- any other statements  
14 that seemed to call into question Special Agent Gamal  
15 Abdel-Hafiz's loyalty to the United States?  
16 MR. BABCOCK: Objection to form.  
17 EXAMINATION BY MR. KAITCHER:  
18 Q. You can answer.  
19 A. Yes, sir. After this April 1999 activity,  
20 I recall Bob and John making references to Gamal in  
21 the context that he did not carry through with their  
22 request that he consensually monitor covertly  
23 individuals of interest to them.  
24 Q. Now, you were the direct supervisor for Bob  
25 Wright and John Vincent; is that right?

Page 30

1 A. Yes, sir.  
2 Q. Did you have any problem with the fact that  
3 the Dallas office, I guess, vetoed Mr. Wright's  
4 request?  
5 A. No, sir.  
6 Q. Why was that?  
7 A. Because the concerns which were raised in  
8 the discussions that we had had with the Dallas FBI  
9 management and the concerns which were codified in the  
10 EC coming from Dallas back to Chicago were legitimate  
11 concerns.  
12 Q. Do you remember what happened to the case  
13 that Bob Wright and John Vincent were working on?  
14 A. Yes, sir.  
15 Q. What happened to that case?  
16 A. It was eventually closed.  
17 Q. Okay. Were any indictments or any, I  
18 guess, public legal action taken based upon that case?  
19 A. There was some public action.  
20 Q. Okay. I guess when you say it was closed,  
21 could you explain to the jury what you mean when you  
22 say it's closed?  
23 A. Administratively within the FBI, the  
24 investigation was closed in the context it was no  
25 longer active.

Page 31

1 Q. Okay. Was the case closed successfully, in  
2 your opinion? Or was it just simply closed because  
3 the investigation had gone as far as it could and  
4 there was nothing further that could be done?  
5 A. Sir, it's probably a long answer that  
6 would -- For me to answer accurately, I would have to  
7 probably venture too far into the investigative  
8 nature.  
9 Q. I don't want to do that. But based upon  
10 your contact with this case as the supervisory agent,  
11 did the fact that the Dallas office vetoed the request  
12 of the Chicago office affect the case one way or the  
13 other?  
14 A. Sir, there was not a dramatic negative  
15 effect upon the investigation as a result of the April  
16 activity.  
17 Q. Did Special Agent Wright ever make any  
18 derogatory ethnic remarks about Gamal?  
19 A. No, sir, not in my presence that I'm aware  
20 of, other than what I had alluded to earlier, which I  
21 did not find acceptable.  
22 Q. Okay. With respect to -- Are you familiar  
23 with a person named Yassin al-Kadi?  
24 A. Yes, sir.  
25 Q. Was that the person that Gamal was

Page 32

1 requested to consensually record?  
2 MR. BENSON: I'm going to object and  
3 instruct the witness not to answer.  
4 MR. KAITCHER: Can we go off the record for  
5 just a second?  
6 THE VIDEOGRAPHER: Going off the record.  
7 The time is 1:09 p.m.  
8 (Off-the-record discussion.)  
9 THE VIDEOGRAPHER: We are now back on the  
10 record. The time is 1:09 p.m.  
11 EXAMINATION BY MR. KAITCHER:  
12 Q. Have you ever heard anyone relate to you a  
13 comment made by Gamal that a Muslim does not record  
14 another Muslim?  
15 A. Sir, I recall seeing that in the media.  
16 Q. Okay. Did Special Agent Wright ever relate  
17 to you that Gamal had told him that a Muslim does not  
18 record another Muslim?  
19 A. No, sir.  
20 Q. Did special Agent Vincent ever relate to  
21 you an alleged comment by Gamal that a Muslim does not  
22 record another Muslim?  
23 A. No, sir.  
24 Q. Did you have any discussions with Assistant  
25 United States Attorney Mark Flessner concerning this

<p style="text-align: right;">Page 33</p> <p>1 matter?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did USA Flessner ever relate to you that</p> <p>4 Gamal had made a comment that a Muslim does not record</p> <p>5 another Muslim?</p> <p>6 A. No, sir.</p> <p>7 Q. Was Special Agent Wright disturbed about</p> <p>8 the fact that the Dallas office had vetoed his</p> <p>9 request?</p> <p>10 A. Yes, sir.</p> <p>11 Q. What did he tell you about that?</p> <p>12 A. He told me that he and Mark Flessner and</p> <p>13 the other two AUSAs in the U.S. Attorney's Office, as</p> <p>14 well as John Vincent, believed that requesting Gamal</p> <p>15 to proceed with a covert monitoring would be a prudent</p> <p>16 investigative step in their mind.</p> <p>17 Q. Did he seem angry about it?</p> <p>18 A. Sir, I don't think "angry" would be the</p> <p>19 appropriate word, but certainly agitated or excited.</p> <p>20 Or having a strong belief would be more accurate</p> <p>21 words.</p> <p>22 Q. As the supervising agent of John Vincent</p> <p>23 and Bob Wright, did you have any problem with the</p> <p>24 Dallas decision?</p> <p>25 A. Sir, I don't think it's entirely fair for</p>	<p style="text-align: right;">Page 35</p> <p>1 against a Muslim suspect because it was against his</p> <p>2 religion?</p> <p>3 A. No, sir.</p> <p>4 Q. Did John Vincent ever tell you that or make</p> <p>5 that statement, that Gamal Abdel-Hafiz had told him</p> <p>6 that?</p> <p>7 A. No, sir.</p> <p>8 Q. What about Mark Flessner? Did he ever tell</p> <p>9 you that or make a statement that Gamal had told him</p> <p>10 that Gamal was refusing to wear a wire against a</p> <p>11 Muslim suspect because it was against his religion?</p> <p>12 A. No, sir.</p> <p>13 MR. KAITCHER: No further questions at this</p> <p>14 time. Thank you. But I'm sure Mr. Babcock will</p> <p>15 have some, and I may have a few follow-ups.</p> <p>16 MR. BABCOCK: I have a few questions.</p> <p>17 EXAMINATION BY MR. BABCOCK:</p> <p>18 Q. This telephone conference among Mark</p> <p>19 Flessner, the Assistant U.S. Attorney, two other</p> <p>20 Assistant U.S. Attorneys, Mr. Wright and Mr. Vincent</p> <p>21 and Mr. Patton and Mr. Abdel-Hafiz, you were not on</p> <p>22 that conference call I take it. Is that correct? The</p> <p>23 one you've been discussing with Mr. Kaitcher.</p> <p>24 A. No, sir. But let me just qualify that I</p> <p>25 don't recall Ron Patton -- I don't recall being aware</p>
<p style="text-align: right;">Page 34</p> <p>1 me to answer the question based on the framework which</p> <p>2 you reference it because I was not only their</p> <p>3 supervisor, I was the supervisor of the investigations</p> <p>4 on the squad for the FBI and the U.S. government. I</p> <p>5 was much more -- my job capacity involved much more</p> <p>6 than just supervise those two guys.</p> <p>7 Q. Sure. I'll rephrase it.</p> <p>8 You were their supervisor, but you were</p> <p>9 also, I believe, in charge of the whole</p> <p>10 counterterrorism squad in the Chicago office, right?</p> <p>11 A. Yes, sir.</p> <p>12 Q. In that capacity, did you have any problem</p> <p>13 with the Dallas office's decision not to order Gamal</p> <p>14 Abdel-Hafiz to undertake these actions that Chicago</p> <p>15 had requested of him?</p> <p>16 A. No, sir. And I made that known as much to</p> <p>17 Ron and Gamal when we had our telephone conversation</p> <p>18 on Tuesday, as I recall.</p> <p>19 Q. Was Gamal Abdel-Hafiz ever ordered to</p> <p>20 conduct any monitoring in connection with these</p> <p>21 requests?</p> <p>22 A. No, sir, not to my knowledge.</p> <p>23 Q. I may have asked you this. Let me make</p> <p>24 sure I understand. Did Special Agent Wright ever tell</p> <p>25 you that Gamal Abdel-Hafiz refused to wear a wire</p>	<p style="text-align: right;">Page 36</p> <p>1 that Ron Patton participated in that Thursday call.</p> <p>2 All I recall is when I spoke to Ron and Gamal on</p> <p>3 Tuesday.</p> <p>4 Q. Okay. But the conference call that you</p> <p>5 were aware of was among the Assistant U.S. Attorneys,</p> <p>6 Wright and Vincent on the Chicago side and</p> <p>7 Mr. Abdel-Hafiz on the Dallas side?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. And if Patton was on there, you</p> <p>10 never knew about it?</p> <p>11 A. No, sir, I don't recall.</p> <p>12 Q. Okay, fair enough.</p> <p>13 Have you ever spoken to anybody at ABC News</p> <p>14 about Mr. Abdel-Hafiz?</p> <p>15 A. No, sir.</p> <p>16 Q. Have you ever spoken to anybody at Fox News</p> <p>17 about Mr. Abdel-Hafiz?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you ever spoken to any media entity or</p> <p>20 outlet about Mr. Abdel-Hafiz?</p> <p>21 A. No, sir.</p> <p>22 Q. Okay. Now, you answered some questions</p> <p>23 about Mr. Wright, Mr. Vincent and Mr. Flessner not</p> <p>24 mentioning anything about this Muslim business.</p> <p>25 MR. BABCOCK: Let me just have this as the</p>

<p style="text-align: right;">Page 37</p> <p>1 next exhibit, 40.  2 (Exhibit No. 40 marked for identification and  3 attached hereto.)  4 EXAMINATION BY MR. BABCOCK:  5 Q. Let me hand you Exhibit 40 which has been  6 produced to us by Mr. Benson, counsel for the FBI.  7 This is a two-page document, and it's dated May 17,  8 1999. Correct?  9 A. Yes, sir.  10 Q. All right. And it says that it was drafted  11 by Vincent, John B. That's the same person we've been  12 talking about?  13 A. Yes, sir.  14 Q. All right. And then it says approved by  15 Timothy F. Gossfeld. That would be you, correct?  16 A. Yes, sir.  17 Q. And that little written squiggly there  18 would be your initials, correct?  19 A. Yes, sir.  20 Q. And putting your initials over your name,  21 that would indicate that you have thoroughly reviewed  22 this document and approved it for transmission to the  23 people that it's going to, correct?  24 A. Yes, sir.  25 Q. All right. And the people that it was</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. All right. And the memo goes on to say:  2 "Dallas is requested to reconsider proceeding with the  3 covert recording if at any time in the future the  4 perceived problem of consensually monitoring a Muslim  5 seeking advice regarding a major U.S. government  6 criminal investigation is overcome."  7 Did I read that correctly?  8 A. Yes, sir.  9 Q. All right. And it was your request and  10 your office's request that Dallas reconsider their  11 decision not to do the covert recording, correct?  12 MR. KAITCHER: Objection; form.  13 EXAMINATION BY MR. BABCOCK:  14 Q. That's what it says there, doesn't it?  15 MR. KAITCHER: Objection; form.  16 EXAMINATION BY MR. BABCOCK:  17 Q. It says Dallas is requested to reconsider.  18 You wanted them to reconsider, right?  19 MR. KAITCHER: Objection; form.  20 THE WITNESS: Yes, sir, that's what it  21 says.  22 EXAMINATION BY MR. BABCOCK:  23 Q. All right. And does this refresh your  24 recollection that you did indeed know that  25 consensually monitoring a Muslim was something that</p>
<p style="text-align: right;">Page 38</p> <p>1 going to, as I understand it, would be Chris Hamilton,  2 Fernando Candelario and Mr. Abdel-Hafiz, correct?  3 A. Yes, sir.  4 Q. All right. Now, if you'll turn to the  5 second page -- Well, let's start with the first. The  6 synopsis is: "Dallas is requested not to proceed with  7 consensual monitoring assistance to Chicago unless  8 such recording is done covertly."  9 And was that Chicago's view as of May 17,  10 1999?  11 A. Yes, sir.  12 Q. All right. And now I want to go to page 2.  13 And the first full paragraph there, the one that  14 starts: "Based upon the suspicious activity linking,"  15 and then there's a number of items redacted, "the  16 Vulgar Betrayal matter. Chicago suspects that a  17 covertly recorded interview of [blank] could be  18 productive from an investigative standpoint."  19 Was that your view at the time?  20 A. My personal view?  21 Q. Your view as the person who approved this  22 memo and in your capacity that you held in the Chicago  23 office of the FBI at that time.  24 A. Yes, sir, from an accuracy standpoint, that  25 would meet with my approval.</p>	<p style="text-align: right;">Page 40</p> <p>1 had to be overcome, that the Muslim aspect had been  2 mentioned to you in this time period? Because it's  3 right here in this memo.  4 A. Yes, sir, it's mentioned by the authors of  5 the -- author of the communication.  6 Q. And the author is Mr. Vincent and yourself,  7 correct?  8 MR. KAITCHER: Objection to form.  9 THE WITNESS: No, sir.  10 EXAMINATION BY MR. BABCOCK:  11 Q. The memo was drafted by Mr. Vincent. You  12 said authors, plural. Was there any other author  13 besides Mr. Vincent that you're aware of?  14 A. No, sir. I said authors because I've seen  15 other ECs where there were a couple of individuals on  16 the "drafted by" line.  17 Q. Okay. But this one has only got one  18 author?  19 A. Yes, sir.  20 Q. Okay. And you approved it, correct?  21 A. Yes, sir.  22 Q. All right. And was this the first time  23 that you realized that there was a problem that had to  24 be overcome with regard to consensually monitoring a  25 Muslim?</p>

<p style="text-align: right;">Page 41</p> <p>1 A. No, sir. I understood that this accurately 2 reflected John and Bob's belief or understanding. I 3 knew that that's how they perceived this problem. 4 Q. All right. But you just got finished 5 answering questions to Mr. Kaitcher where you said -- 6 MR. KAITCHER: Kaitcher. 7 MR. BABCOCK: Kaitcher, sorry. I do that 8 all the time. 9 EXAMINATION BY MR. BABCOCK: 10 Q. You just got finished answering 11 Mr. Kaitcher's questions where you said neither Wright 12 nor Vincent nor Flessner ever mentioned that 13 Abdel-Hafiz was refusing to wear a wire on a Muslim. 14 In fact, you did know prior to this memo that 15 Mr. Abdel-Hafiz was refusing to consensually monitor a 16 Muslim, correct? 17 MR. KAITCHER: Objection; form. 18 THE WITNESS: No, sir. That question 19 came -- was referenced regarding whether I had 20 ever heard any of those individuals say a Muslim 21 does not record a Muslim. 22 EXAMINATION BY MR. BABCOCK: 23 Q. Oh, okay. He broadened the question a 24 little bit later. You never heard those exact words, 25 but you were certainly aware that Mr. Wright and</p>	<p style="text-align: right;">Page 43</p> <p>1 Flessner? 2 A. No, sir. 3 Q. You said you had a meeting with the SAC, 4 whose name was Kathleen McChesney, I thought you said 5 A. Yes, sir. 6 Q. And Ms. McChesney, who is the head of your 7 office in Chicago and your superior, correct? 8 A. Yes, sir. 9 Q. It was her view that this consensual 10 monitoring of the Muslim terrorist suspect should go 11 forward, correct? 12 A. Sir, that wouldn't be an accurate 13 portrayal, no. 14 Q. All right. You said in response to 15 Mr. Kaitcher's questions that that evening you had a 16 meeting with Kathleen McChesney, the SAC of the FBI 17 Chicago office, and she and the U.S. Attorney thought 18 that it was appropriate to request consensual 19 monitoring of the terrorism suspect. Is that your 20 testimony or not? 21 A. Sir, it was in that meeting with 22 Ms. McChesney that she told me that she concurred with 23 the U.S. Attorney's position that the covert recording 24 would be a good investigative step, but there was no 25 reference to a terrorism subject or -- there was no</p>
<p style="text-align: right;">Page 42</p> <p>1 Mr. Vincent and Mr. Flessner reported to you that 2 Mr. Abdel-Hafiz's reluctance to record the suspect, 3 the terrorism suspect, was in part because he was a 4 Muslim? 5 MR. KAITCHER: Objection; form. 6 EXAMINATION BY MR. BABCOCK: 7 Q. Correct? 8 A. Yes, I knew that was their perception. 9 Q. And they were reporting a conversation that 10 you weren't on, but they were reporting on a 11 conversation that they had had with Mr. Hafiz where 12 they reported their perception that he said that he 13 wouldn't consensually monitor a Muslim, right? 14 MR. KAITCHER: Objection; form. 15 THE WITNESS: Yes, sir, that's accurate. 16 EXAMINATION BY MR. BABCOCK: 17 Q. All right. And as you've said, they 18 were -- I think you said they were agitated and 19 concerned. Not angry, but agitated and concerned 20 about that, right? 21 A. Yes, sir. 22 Q. And you are aware, are you not, that it was 23 Mr. Flessner who demanded a meeting with Kathleen 24 McChesney, the Special Agent in Charge of your office, 25 because of this, correct? You don't think it was</p>	<p style="text-align: right;">Page 44</p> <p>1 reference to Muslim or any religion at that time. It 2 was from a strategic investigative standpoint that 3 that was conveyed to me. 4 Q. Okay. So as far as McChesney was 5 concerned, it could have been an Episcopalian? She 6 wanted it consensually monitored; in other words, she 7 wanted Mr. Abdel-Hafiz to wear a wire on this suspect, 8 right? 9 MR. KAITCHER: Objection; form. 10 EXAMINATION BY MR. BABCOCK: 11 Q. Religion wasn't a part of it? 12 A. No, sir. And that was what was codified in 13 the EC from the Chicago office the next day. 14 Q. Right. We'll get to that EC in a minute. 15 But this document, Exhibit 40 that we're talking 16 about, you say: "Dallas is requested to reconsider 17 proceeding with the covert recording if at any time in 18 the future the perceived problem of consensually 19 monitoring a Muslim seeking advice regarding a major 20 U.S. government criminal investigation is overcome." 21 And my question is: Did they ever tell 22 you, did Dallas ever tell you, Mr. Abdel-Hafiz, Patton 23 or Defenbaugh or anybody else, that they had overcome 24 the perceived problem of consensually monitoring a 25 Muslim?</p>

<p style="text-align: right;">Page 45</p> <p>1 MR. KAITCHER: Objection; form.</p> <p>2 THE WITNESS: Sir, I have to correct you,</p> <p>3 because I didn't write that. You said I wrote</p> <p>4 it. I didn't.</p> <p>5 EXAMINATION BY MR. BABCOCK:</p> <p>6 Q. Fair enough.</p> <p>7 A. That's John, and that's John clearly taking</p> <p>8 a shot at the situation here.</p> <p>9 Q. Well, wait a minute. Did you say to</p> <p>10 Mr. Vincent when you approved this memo and carefully</p> <p>11 reviewed it, "Hey John, you're taking a shot at the</p> <p>12 situation. Don't put that in there."</p> <p>13 A. Sir, I actually do recall talking to him</p> <p>14 about it and correcting the initial draft of the</p> <p>15 communication that was put forward for approval.</p> <p>16 Q. All right. And this is the final draft we</p> <p>17 have here, correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. All right. So Mr. Vincent had even more</p> <p>20 intemperate language, in your view, in the initial</p> <p>21 draft of this Exhibit 40, correct?</p> <p>22 A. No, sir.</p> <p>23 Q. All right. Well, what did you correct --</p> <p>24 what did you take out of the initial draft?</p> <p>25 A. I corrected the last paragraph, which</p>	<p style="text-align: right;">Page 47</p> <p>1 please.</p> <p>2 EXAMINATION BY MR. BABCOCK:</p> <p>3 Q. Go ahead. They weren't happy with the</p> <p>4 situation. Go ahead.</p> <p>5 A. They wanted Gamal to proceed with the</p> <p>6 covert monitoring.</p> <p>7 Q. All right, fair enough.</p> <p>8 And this sentence, the one I just read</p> <p>9 about the perceived problem of consensually monitoring</p> <p>10 a Muslim, in your view, that was Vincent taking a shot</p> <p>11 at Mr. Abdel-Hafiz, correct?</p> <p>12 A. Sir, it's not my view. It's my clear</p> <p>13 understanding. Those are John's words.</p> <p>14 Q. Right. And you're the one that brought up</p> <p>15 the shot business in your testimony. And my question</p> <p>16 is: Is this sentence, in your view, John Vincent</p> <p>17 taking a shot at Mr. Abdel-Hafiz?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And you approved his taking a shot at</p> <p>20 Mr. Abdel-Hafiz when you approved this sentence,</p> <p>21 correct?</p> <p>22 MR. KAITCHER: Objection to form.</p> <p>23 THE WITNESS: Sir, I approved the</p> <p>24 electronic communication.</p> <p>25 EXAMINATION BY MR. BABCOCK:</p>
<p style="text-align: right;">Page 46</p> <p>1 contains a reference to myself.</p> <p>2 Q. Okay. Did you ever make a correction to</p> <p>3 the sentence that says: "Dallas is requested to</p> <p>4 reconsider proceeding with covert recording if at any</p> <p>5 time in the future the perceived problem of</p> <p>6 consensually monitoring a Muslim seeking advice</p> <p>7 regarding a major U.S. government criminal</p> <p>8 investigation is overcome." Did you ever change that</p> <p>9 sentence?</p> <p>10 A. No, sir, not to my recollection.</p> <p>11 Q. All right. And is it your position today</p> <p>12 that this sentence is taking a shot at somebody?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And it's taking a shot at whom?</p> <p>15 A. Well, a shot --</p> <p>16 Q. Those are your words, not my words.</p> <p>17 MR. KAITCHER: Just a minute. Let the</p> <p>18 witness finish answering, all right, Chip?</p> <p>19 EXAMINATION BY MR. BABCOCK:</p> <p>20 Q. Go ahead.</p> <p>21 A. Sir, it's very clear to me, because I work</p> <p>22 with these guys every day, that John and Bob were not</p> <p>23 happy with this situation.</p> <p>24 Q. They weren't happy --</p> <p>25 MR. KAITCHER: Chip, let him finish,</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Well, you approved this sentence, didn't</p> <p>2 you?</p> <p>3 A. That's clearly a part of the electronic</p> <p>4 communication.</p> <p>5 Q. And you didn't tell him to take it out,</p> <p>6 correct?</p> <p>7 A. No, sir. It's part of the communication.</p> <p>8 Q. And you didn't tell him to revise it as you</p> <p>9 did with the second paragraph, the paragraph right</p> <p>10 after that? You didn't tell him to revise that</p> <p>11 sentence, did you?</p> <p>12 A. Not that I can recall.</p> <p>13 Q. All right. You knew as of -- well, prior</p> <p>14 to May 17th that both Mr. Wright and Mr. Vincent were</p> <p>15 upset because Mr. Abdel-Hafiz was refusing to covertly</p> <p>16 record a terrorism suspect because he was a Muslim, in</p> <p>17 their view --</p> <p>18 MR. KAITCHER: Objection; form.</p> <p>19 EXAMINATION BY MR. BABCOCK:</p> <p>20 Q. Correct?</p> <p>21 A. Yes, sir. I had read this communication,</p> <p>22 and I had worked with them, and I knew what their</p> <p>23 feelings were.</p> <p>24 Q. All right. And even though you don't</p> <p>25 recall them saying the exact quote that they quoted</p>

<p style="text-align: right;">Page 49</p> <p>1 from the telephone conversation that they were on  2 where they later quoted Mr. Abdel-Hafiz as saying a  3 Muslim does not record another Muslim, you knew that  4 was the tenor of their concern about Mr. Abdel-Hafiz,  5 correct?  6 A. You mean the tenor as evidenced by this  7 statement here or --  8 Q. Well, that would be one source.  9 A. Yes, sir.  10 Q. And another source would be what they told  11 you, what Mr. Wright and Mr. Vincent told you was the  12 source of their concern, was that Mr. Abdel-Hafiz, who  13 is a Muslim, would not record a terrorism suspect who  14 was also a Muslim?  15 MR. KAITCHER: Objection; form.  16 THE WITNESS: No, sir. That would be  17 reading a little bit too much into it.  18 EXAMINATION BY MR. BABCOCK:  19 Q. All right. Well, were you not told or  20 informed by Mr. Wright and Mr. Vincent that in fact on  21 this telephone conference call, that Mr. Abdel-Hafiz  22 said that for a Muslim to secretly record another  23 Muslim would be an ultimate act of betrayal?  24 A. No, sir.  25 Q. They never told you that?</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Yes, sir.  2 Q. All right. If you'll turn to page 6, the  3 fact that you initialled your name on this means that  4 you carefully reviewed it and approved it, correct?  5 A. Yes, sir.  6 Q. If you'll see up here at the top of page 6,  7 it says: "SA Abdel-Hafiz responded that the secret  8 recording of a conversation between Muslims is  9 regarded in the Muslim culture as the ultimate act of  10 betrayal."  11 Did I read that correctly?  12 A. Yes, sir.  13 Q. So you didn't first hear about that in the  14 media, did you, sir?  15 A. No, I guess not.  16 Q. All right. The first time that you heard  17 that Mr. Abdel-Hafiz had told the people on this  18 telephone call that the recording of a conversation  19 between Muslims is regarded in the Muslim culture as  20 the ultimate act of betrayal was in a memo dated  21 April 16, 1999, that you approved, correct?  22 A. Yes, sir. That's an EC.  23 Q. Electronic communication, correct?  24 A. Yes, sir.  25 Q. So this would refresh your recollection, I</p>
<p style="text-align: right;">Page 50</p> <p>1 A. No. I saw that in the media, but I did not  2 hear that from them.  3 Q. You saw that in the media. But that's the  4 only place you saw it?  5 A. That statement that you just --  6 Q. That ultimate act of betrayal.  7 A. I did not hear that from John Vincent or  8 Bob Wright.  9 Q. Okay. Well, let's take a look at another  10 exhibit we have here. This is Exhibit 11A.  11 (Exhibit No. 11A marked for identification and  12 attached hereto.)  13 EXAMINATION BY MR. BABCOCK:  14 Q. Now, Exhibit 11A is an FBI document that's  15 been produced by Mr. Benson, and it's dated April 16,  16 1999, correct?  17 A. Yes, sir.  18 Q. And this is one that's drafted by Robert  19 Wright, correct? That's what it says.  20 A. Yes, sir.  21 Q. And this is another instance where it was  22 approved by, among others, you, correct?  23 A. Yes, sir.  24 Q. And that's your initials over your name  25 there on the first page of this document, correct?</p>	<p style="text-align: right;">Page 52</p> <p>1 assume, that as early as April 16th, you knew that  2 Mr. Hafiz was resisting recording this terrorism  3 suspect in part because the recording of a  4 conversation between Muslims is regarded in the Muslim  5 culture as an ultimate act of betrayal, correct?  6 MR. KAITCHER: Objection; form.  7 THE WITNESS: Yes, sir, that's exactly what  8 it's doing, is refreshing my recollection.  9 EXAMINATION BY MR. BABCOCK:  10 Q. Thank you.  11 And so as of April 16, 1999, you knew that  12 Mr. Hafiz was refusing or expressing reluctance to  13 record a conversation of a Muslim terrorism suspect  14 because, in the culture, it's viewed as an ultimate  15 act of betrayal, correct?  16 MR. KAITCHER: Objection; form.  17 THE WITNESS: No, sir, that wouldn't be  18 accurate either. Because this is Bob Wright  19 writing this communication.  20 EXAMINATION BY MR. BABCOCK:  21 Q. But you approved it?  22 A. I wasn't in the conference, but I was the  23 supervisor, supervisor of the squad, and I reviewed  24 his communication and I approved it. I don't want to  25 add any undue credence when I wasn't a party.</p>

<p style="text-align: right;">Page 53</p> <p>1 Q. And that's why my very first question, as 2 you may recall, was that you were not on this 3 telephone call. 4 A. Yes, sir. 5 Q. So I'm just now trying to get your state of 6 awareness. And as you admitted candidly, this is 7 refreshing your recollection. These things happened 8 seven years ago. 9 A. Yes, sir. 10 Q. But in response to the direct questions, it 11 appeared that you didn't know anything about this 12 Muslim thing. But I'm just telling you, or asking you 13 now, isn't it true that at least as of April 16, 1999, 14 you were aware that Mr. Wright in this instance, as 15 the author of this memo that you approved, that his 16 view was that Mr. Abdel-Hafiz had responded that the 17 secret recording of a conversation between Muslims was 18 regarded in the Muslim culture as the ultimate act of 19 betrayal? 20 A. Yes, sir. 21 Q. Okay, fair enough. 22 If you'll look at the last paragraph of 23 this Exhibit 11A, it talks about a telephone 24 conference between the Chicago Assistant U.S. 25 Attorneys and Mr. Patton, and then a new name, Scott</p>	<p style="text-align: right;">Page 55</p> <p>1 that shorthand for, if anything? 2 A. It's best described as a code word title 3 for an investigation. 4 Q. All right. And Mr. Kaitcher asked you 5 whether there had been any public results of that 6 investigation. And were there? Or public actions, I 7 think was his phrase. 8 A. Yes, sir. 9 Q. And what were the public actions or results 10 of that investigation? 11 A. There was a public seizure of funds in 12 1998. 13 Q. As a result of this investigation, this 14 Vulgar Betrayal investigation, or a part of it, I 15 guess? 16 A. Yes, sir. 17 Q. All right. And the seizure of funds was in 18 what amount? 19 A. It was just shy of \$1.5 million, as I 20 recall. 21 Q. All right. And who was the seizure from? 22 A. Sir, I recall it being seized from a number 23 of entities. 24 Q. And the entities that this 1. -- just shy 25 of \$1.5 million was seized from were organizations</p>
<p style="text-align: right;">Page 54</p> <p>1 Lassar is introduced. Do you know who Mr. Lassar was? 2 A. Yes, sir. 3 Q. All right. And who is Mr. Lassar? 4 A. He was the United States Attorney for the 5 Northern District of Illinois. 6 Q. The Chicago area? 7 A. Yes, sir. 8 Q. Chicagoland, as they like to say in 9 Chicago? 10 A. Yes, sir. 11 Q. All right. And is it true that Mr. Lassar, 12 as it says here, was briefed about the reluctance of 13 Special Agent Abdel-Hafiz to record a possible meeting 14 that he might have with a prime target of the Vulgar 15 Betrayal matter? Is that true? 16 A. Yes, sir, that was my understanding. 17 Q. All right. And "Lassar then contacted 18 Chicago SAC Kathleen McChesney to further discuss the 19 situation. Both Lassar and McChesney agree that the 20 FBI should pursue the effort to obtain this evidence." 21 Was that also your understanding? 22 A. Yes, sir. 23 Q. Now, Mr. Kaitcher asked you as to whether 24 or not this Vulgar Betrayal -- And what is that, by 25 the way? What does Vulgar Betrayal mean? What is</p>	<p style="text-align: right;">Page 56</p> <p>1 that the FBI suspected of financing terrorist 2 activities, correct? 3 A. I'm hesitating a little bit in answering 4 the question because I understand that some aspects of 5 that action are still ongoing, even after seven or 6 eight years or so. 7 Q. I thought you said the investigation is 8 closed. 9 A. That's what I was alluding to earlier when 10 I said it's kind of a tough answer -- a tough question 11 to answer in a succinct period of time. 12 Q. All right. Well, let me try it this way. 13 The unit that you were in at the time was CT1 or 14 Counterterrorism 1, correct? 15 A. Yes, sir. 16 Q. And Vulgar Betrayal was investigating 17 organizations that were suspected of various terrorist 18 activities, correct? 19 A. Yes, sir. 20 Q. And one of the things that you were trying 21 to do was to seize some of the assets of the terrorist 22 activities through the civil process? That's what it 23 says here on 11A, civil seizures of its asset. 24 A. Yes, sir. 25 Q. All right. And to seize somebody's money</p>

Page 57

1 in the amount of almost a million-five, you can't just  
2 run out there and grab the cash. You've got to go  
3 through court, right?

4 A. Yes, sir.

5 Q. So the FBI went to court with the Assistant  
6 U.S. Attorneys like Mr. Flessner and got a judge to  
7 authorize you to seize almost a million-five in  
8 assets, correct?

9 A. Yes, sir.

10 Q. All right. And as far as you know, that  
11 money is still in the hands of the United States  
12 government, correct?

13 A. Sir, it would not be good for me to say my  
14 impression. It's still being litigated.

15 Q. Fair enough.

16 But the FBI's side of the litigation is  
17 that the money should be forfeited because it was  
18 being used to finance terrorist activities, correct?

19 A. Yes, sir, that was the premise upon which  
20 civil forfeiture proceeded, was initiated.

21 Q. Fair enough.

22 You talked right at the beginning of the  
23 direct examination about how in late 1998 -- you  
24 thought it was December, it might have been  
25 November -- that you first met Mr. Abdel-Hafiz, and

Page 58

1 you said you didn't have any problems working with  
2 him, he was -- he appeared to be helpful.

3 Did you on that trip ask him to  
4 consensually monitor any Muslim terrorist suspects?

5 A. No, sir.

6 Q. You've been handed what has previously been  
7 marked as Exhibit 6A, which I will tell you is a sworn  
8 statement by Mr. Wright in response to an EEO  
9 complaint that Mr. Abdel-Hafiz filed against him.

10 My question is: Have you ever seen this  
11 document before?

12 A. No, sir.

13 Q. I therefore don't have any questions about  
14 this document, then.

15 Before I mark this, I want to just see if  
16 you recognize the handwriting here. Is that your  
17 handwriting?

18 A. Yes, sir.

19 MR. BABCOCK: Okay, mark it.

20 (Exhibit No. 41 marked for identification and  
21 attached hereto.)

22 EXAMINATION BY MR. BABCOCK:

23 Q. Exhibit 41 is an electronic communication  
24 dated April 21, 1999. And it was drafted by  
25 Mr. Abdel-Hafiz, correct?

Page 59

1 A. Yes, sir.

2 Q. All right. And if you'll turn to the third  
3 page of that document, you will see some handwriting,  
4 and I think it says: "John, please assure this  
5 paragraph is included in the response."

6 And is that your handwriting?

7 A. Yes, sir. It says "please ensure." And  
8 yes, that is my handwriting.

9 Q. Please ensure, thank you. And the  
10 handwritten paragraph right below that, "Chicago  
11 wishes to clarify," that's also your handwriting?

12 A. Yes, sir.

13 Q. All right. And so that relates to the  
14 paragraph that you talked about earlier in Exhibit 40  
15 where you had had a discussion with Mr. Vincent about  
16 adding some language which we find here in the final  
17 paragraph of Exhibit 40, correct?

18 A. Yes, sir.

19 Q. All right. And in fact, you had asked  
20 Mr. Vincent to draft Exhibit 40, which was a response  
21 to Mr. Abdel-Hafiz's communication to you which is  
22 Exhibit 41, minus the handwriting?

23 A. Yes, sir.

24 Q. Okay, fair enough.

25 MR. BABCOCK: That's all I have. Thank

Page 60

1 you.

2 MR. ORFANEDES: Nothing.

3 EXAMINATION BY MR. KAITCHER:

4 Q. Just a couple of questions.

5 If you go back, I think it's to -- let me  
6 make sure I've got my numbers right here --

7 Exhibit 40, this was a memorandum authored by John  
8 Vincent and approved by you; is that correct?

9 A. Yes, sir.

10 Q. What does it mean when -- What is the  
11 difference between authoring it and approving it? I  
12 mean, what is the reason you have to approve a  
13 particular document like this?

14 A. Sir, when you're conducting an  
15 investigation, it's a broad and expansive effort  
16 amongst the investigators, and information is traded  
17 and sent and received and digested and analyzed,  
18 evaluated. That's part of the investigative process.

19 It's not too often as an investigator you are  
20 confronted with the entire A-to-Z result of the  
21 investigation, the whole story. It sometimes takes a  
22 couple of days to put it together. It sometimes takes  
23 months, years or decades to put the investigation  
24 together. And in the process of conducting an  
25 investigation in the FBI, information is moved around



<p style="text-align: right;">Page 61</p> <p>1 the FBI, on the telephone, in personal meetings, and  2 in electronic communications made part of the official  3 Bureau record. And when a supervisor approves a  4 communication, that's what it's meant to do, document  5 that information in a case file as part of the  6 investigation.  7 Q. Is it your role in approving these to make  8 sure every single word is correct, or is it more just  9 to make sure that improper information is not sent  10 out?  11 MR. BABCOCK: Object to the form.  12 MR. KAITCHER: I'll rephrase.  13 EXAMINATION BY MR. KAITCHER:  14 Q. What is your role in, quote, unquote,  15 approving a communication such as Exhibit 40?  16 A. Sir, my role is not as the key investigator  17 or the case agent in the investigation. My role is  18 that of a supervisor. So whether or not I'm approving  19 a document that's one page long or 125 pages long, I'm  20 not attesting to every word, every paragraph, every  21 part of that communication. What we're trying to do  22 is facilitate the efficient flow of information across  23 national and international boundaries.  24 Q. Okay. If you turn to the second page of  25 that, Mr. Babcock asked you earlier about the sentence</p>	<p style="text-align: right;">Page 63</p> <p>1 So it meant a little bit more to me in that sense.  2 Q. Okay. Turn, if you would -- I want to make  3 sure I've got my numbers right -- the last exhibit,  4 which I think is 41. Do you have that in front of  5 you?  6 A. Yes, sir.  7 Q. Turn to Paragraph 5, if you would.  8 A. Yes, sir.  9 Q. With respect to -- Have you had a chance to  10 read it and its continuation on page 3 of this memo?  11 A. Yes, sir.  12 Q. What was your understanding of the events  13 that were related in Paragraph 5?  14 A. Sir, again, to this day I wish very much I  15 was able to participate in that conference call, but I  16 wasn't there and I can't speak to the exact facts of  17 the content of that call, that meeting.  18 Q. Well, let me ask you this question. Do you  19 know what the concerns of the Dallas office were about  20 having Gamal covertly record individuals involved in  21 investigations?  22 MR. BABCOCK: Object to the form.  23 EXAMINATION BY MR. KAITCHER:  24 Q. You can answer the question.  25 A. Yes, sir. I think what I'm reading right</p>
<p style="text-align: right;">Page 62</p> <p>1 that says: "Based upon the suspicious activity  2 linking [blank] the Vulgar Betrayal matter. Chicago  3 suspects that a covertly recorded interview of [blank]  4 could be productive from an investigative standpoint."  5 And he asked you what your view of the  6 matter was, and you said, "My personal view or my  7 official view as the approver of this memo?" And I  8 think you gave him the official view as the approver  9 of the memo. What was your personal view about the  10 potential productivity of the requested covertly  11 recorded interview?  12 A. Sir, my personal view is I was focused on  13 the last paragraph. I glossed over the front page. I  14 glossed over this. I read it. But I was focused on  15 the last paragraph, because I did have a recall that I  16 wanted to make something very clear on a previous  17 communication that came from Dallas, as was just  18 refreshed to my recollection a couple of minutes ago.  19 And that's what I was keen on when I was looking at  20 this communication.  21 Q. Okay.  22 A. Because I understood something I might have  23 said having been not entirely portrayed as being  24 accurate. That was something that I was involved in,  25 not something that I observed someone else perceive.</p>	<p style="text-align: right;">Page 64</p> <p>1 here coincides with what I answered previously about  2 what my impression of what the Dallas SAC opinion was.  3 Q. And what was your impression about the  4 Dallas SAC's opinion?  5 A. Well, before I referred to community  6 outreach. Here there is a reference to potential loss  7 of ability to work within the Muslim community as well  8 as security concerns. I touched on both of those.  9 Q. Okay. Do you know whether or not Bob  10 Wright and John Vincent were familiar with any of the  11 other assignments that Gamal was performing on behalf  12 of the FBI?  13 A. No, sir, I can't speak to that.  14 Q. Did ABC or Fox or any other media attempt  15 to contact your office and speak with you at any time  16 about the allegations that Bob Wright and John Vincent  17 made?  18 A. No, sir.  19 Q. Did Bob Wright advise you that he was going  20 to make an appearance on ABC News prior to the time he  21 did so?  22 A. No, sir.  23 Q. Were you surprised that he made an  24 appearance on ABC News?  25 A. By that time, no, actually. Because he had</p>

Page 65	Page 67
<p>1 done so many other bizarre things that I was no longer 2 surprised by that type of action. 3 Q. What sort of bizarre things had Bob Wright 4 done? 5 A. Sir, I recall a couple of national press 6 conferences he gave in Washington that were broadcast. 7 Q. Okay. Was that unusual for special agents 8 in the FBI to appear on national broadcasts? 9 A. Yes, in my opinion. 10 Q. You're kind of smiling when you say that. 11 Why? Why is that unusual? 12 A. Well, we are part of the Federal Bureau of 13 Investigation, not the individual bureau of 14 investigation. We don't work for ourselves. We don't 15 work for the SAC in Chicago. We work for the American 16 people. We are fulfilling an obligation to the 17 American people in investigating all types of crimes, 18 administrative violations and acts of terrorism and 19 efforts to support terrorism. We don't normally go on 20 international television and espouse our own personal 21 views of the abilities of individuals that we work 22 with. That's unusual behavior within the FBI. 23 Q. Did you know that John Vincent was going to 24 appear on ABC News prior to the time that he did so? 25 A. No, sir, I don't recall I did.</p>	<p>1 witness to testify to the scope of your request 2 in this letter. That exceeds the scope, in my 3 opinion. The witness is instructed not to answer 4 the question. 5 EXAMINATION BY MR. KAITCHER: 6 Q. Back on Exhibit No. 41, if you'll look at 7 Paragraph 4 on page 2. Do you have that in front of 8 you? 9 A. Yes. 10 Q. This is the paragraph that you wanted to 11 clarify. I think you wanted to clarify the last 12 statement, is that correct, your handwritten notes at 13 the end of this exhibit? 14 A. Yes, sir. 15 Q. But let me ask you about the first portion 16 of the exhibit. I'm sorry, the first portion of that 17 conversation. Paragraph 4 says: "In referenced 18 84/14/99 telcal to discuss the possibility of SA 19 Abdel-Hafiz consensually monitoring the meeting with 20 [blank] it was made clear that SA Abdel-Hafiz had no 21 personal reason to meet with [blank]. It was also 22 explained that there existed a huge potential for SA 23 Abdel-Hafiz to lose his ability to gather intelligence 24 from the Arab community if it were known in the 25 community that he had recorded a conversation between</p>
Page 66	Page 68
<p>1 Q. Were you surprised that he appeared on ABC 2 News? 3 A. Sir, to one extent, yes, because he had not 4 done the international press conferences as Bob had 5 done previously. But no in the sense that I 6 understood that he appeared to be aligned with Bob on 7 some sort of campaign. 8 Q. Do you know whether Bob Wright was subject 9 to any formal disciplinary charges by the FBI? 10 A. Yes, sir. 11 Q. Without getting into detail, can you 12 briefly tell me what those actions were? 13 A. Sir, I couldn't briefly do that. It would 14 take some time. 15 Q. Were there a number of different 16 disciplinary issues that he had with the FBI prior to 17 his appearing on ABC News in December of 2002? 18 A. Yes, sir. 19 Q. Do you know how many different events there 20 were? 21 MR. BENSON: I'm going to object to the 22 question. It exceeds the scope of the letter 23 that you provided me on January 31, 2006, 24 concerning what would be asked during this 25 deposition. The FBI has only agreed to allow the</p>	<p>1 himself and another Muslim seeking advice." 2 Do you see that there? 3 A. Yes, sir. 4 Q. Is this particular paragraph discussing the 5 telephone conference that you had with -- that you 6 personally had with Agent Abdel-Hafiz and Ron Patton? 7 A. Yes, sir. 8 Q. Okay. Did you discuss with Gamal and his 9 supervisor the statement about losing the ability to 10 gather intelligence from the Arab community? 11 A. Sir, the way I recall it, we talked about 12 community outreach efforts. And clearly, the 13 community was the Arab-American community. And I 14 don't really use the word Muslim community. I don't 15 understand it that way. And I never would have seized 16 on that in the conversations. I understood community 17 outreach. 18 Q. My question to you is: Did Gamal explain 19 to you that he was attempting to develop intelligence 20 from either the Muslim community or the Arab 21 community? 22 MR. BABCOCK: Object to the form. 23 THE WITNESS: Sir, I don't recall the 24 specific term "intelligence," because that has a 25 couple of different meanings. But I clearly</p>

<p style="text-align: right;">Page 69</p> <p>1 understood liaison or outreach or good relations.  2 MR. KAITCHER: I have no further questions  3 at this time.  4 EXAMINATION BY MR. BABCOCK:  5 Q. Just a couple more.  6 You mentioned that Mr. Wright had been the  7 subject of different disciplinary actions. Is it also  8 not true that as a result of Mr. Wright's accusations  9 directed to you, that you, too, have been the subject  10 of different disciplinary actions at the FBI?  11 A. No, sir.  12 Q. Do you have any -- do you hold any animus  13 or any bias against Mr. Wright?  14 A. Other than what I was attempting to convey  15 here of how I thought that was not typical behavior on  16 the part of FBI agents. No, I don't have any personal  17 problems with him.  18 Q. He did allow you to see his manuscript that  19 he wrote about this time period leading up to  20 September 11th, 2001, correct?  21 A. Yes, sir.  22 Q. And in that manuscript, in part, you were  23 treated in a very flattering way, correct?  24 A. Well, I didn't read the whole thing.  25 Q. Well, I'm trying to get to the part where</p>	<p style="text-align: right;">Page 71</p> <p>1 MR. BABCOCK: I just want to make the  2 record straight.  3 EXAMINATION BY MR. BABCOCK:  4 Q. Just one series of final questions. And  5 we're back to Exhibit 40. The paragraph -- the  6 next-to-last paragraph where Dallas is requested to  7 reconsider proceeding with the covert recording. Is  8 it your testimony that you glossed over the request by  9 Dallas -- the request by your office to Dallas to  10 reconsider proceeding with the covert recording? You  11 said you glossed over that. You glossed over that and  12 didn't pay any attention to it?  13 A. Sir, I was trying to -- It's been a few  14 years, but I was trying --  15 Q. Sure.  16 A. -- to convey what I do recall now as my  17 thoughts or my actions, and I do recall fixating on  18 that last paragraph of this communication.  19 Q. But the central purpose of this whole  20 document, Exhibit 40, was to ask Dallas to reconsider  21 their refusal to covertly record this terrorism  22 suspect, correct?  23 A. Yes, sir, that's correct.  24 Q. And my question is: Did you gloss over  25 that paragraph that requested it? Or did you pay</p>
<p style="text-align: right;">Page 70</p> <p>1 you're not treated so flatteringly.  2 A. Okay.  3 Q. So there were parts of it that were  4 critical of you, correct?  5 MR. KAITCHER: I'm going to object to form  6 of the question, especially since the document is  7 not in evidence and this witness hasn't read it.  8 MR. BENSON: I'm going to object to a  9 discussion of that document because the document  10 has not been publicly released by the FBI and  11 it's the subject of at least one lawsuit at this  12 time.  13 MR. BABCOCK: Different from this one?  14 MR. BENSON: Different from this one. And  15 I will instruct the witness not to answer any  16 questions about the manuscript.  17 MR. BABCOCK: Okay, fair enough.  18 And, John, I'll assume that based on your  19 prior instruction to Mr. Kaitcher, that you would  20 not permit the witness to respond to any of my  21 questions about these different disciplinary  22 actions that supposedly have been directed at  23 Mr. Wright?  24 MR. BENSON: No, I would not allow that  25 either.</p>	<p style="text-align: right;">Page 72</p> <p>1 careful attention to it when you were reviewing it?  2 Or something in between?  3 A. No. I accept full responsibility for  4 reading that, reviewing it, and I approved it. And if  5 there was a dirty word in there, or if there was  6 something else -- I mean, I clearly recall this entire  7 document at this point.  8 Q. All right. And so it would not be correct  9 to say that you glossed over it when you were  10 reviewing it because it was important to you at the  11 time, and to the Bureau, correct?  12 A. Glossed over -- What I meant to say is  13 that's what I immediately seized on. I was seizing on  14 a certain part of a communication. So I didn't ignore  15 and I didn't review in excruciating detail. What I  16 meant when I said "glossed over" was that I might have  17 scanned over that a little quicker than maybe I would  18 at this point.  19 Q. Okay, fair enough.  20 But it was not unimportant, the sentence  21 that said, "Dallas is requested to reconsider  22 proceeding with the covert recording if at any time in  23 the future the perceived problem of consensually  24 monitoring a Muslim seeking advice regarding a major  25 U.S. government criminal investigation is overcome,"</p>

Page 73	Page 75																																																																								
<p>1 correct?</p> <p>2 MR. KAITCHER: Objection; form.</p> <p>3 THE WITNESS: No, sir.</p> <p>4 EXAMINATION BY MR. BABCOCK:</p> <p>5 Q. So I'm right about that, it was not</p> <p>6 unimportant?</p> <p>7 MR. KAITCHER: Objection; form.</p> <p>8 THE WITNESS: That appears to be a central</p> <p>9 part of the EC, yes.</p> <p>10 MR. BABCOCK: Okay, fair enough.</p> <p>11 Thank you. That's all I have.</p> <p>12 MR. KAITCHER: I have no further questions.</p> <p>13 Thank you.</p> <p>14 THE VIDEOGRAPHER: This marks the end of</p> <p>15 the deposition of Mr. Gossfeld. The number of</p> <p>16 tapes used was one. We are going off the record.</p> <p>17 The time is 2:09 p.m.</p> <p>18 (Whereupon, the deposition was concluded.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 REPORTER'S CERTIFICATE</p> <p>2</p> <p>3 I, the undersigned Registered Professional</p> <p>4 Reporter and Notary Public, do hereby certify that</p> <p>5 TIMOTHY F. GOSSFELD, after having been first duly</p> <p>6 sworn by me to testify to the truth, did testify as</p> <p>7 set forth in the foregoing pages, that the testimony</p> <p>8 was reported by me in stenotype and transcribed</p> <p>9 under my personal direction and supervision, and is</p> <p>10 a true and correct transcript.</p> <p>11 I further certify that I am not of</p> <p>12 counsel, not related to counsel or the parties</p> <p>13 hereto, and not in any way interested in the outcome</p> <p>14 of this matter.</p> <p>15 SUBSCRIBED AND SWORN TO under my hand and</p> <p>16 seal this ____ of _____, 2006.</p> <p>17</p> <p>18 _____</p> <p>19 JOHN L. HARMONSON, RPR</p> <p>20 Notary Public in and for</p> <p>21 the District of Columbia</p> <p>22 My Commission Expires: 10/14/2010</p> <p>23</p> <p>24</p> <p>25</p>																																																																								
Page 74	Page 76																																																																								
<p>1 WITNESS CERTIFICATE</p> <p>2</p> <p>3 I, TIMOTHY F. GOSSFELD, have read or have had the</p> <p>4 foregoing testimony read to me and hereby certify that</p> <p>5 it is a true and correct transcription of my testimony</p> <p>6 with the exception of any attached corrections or</p> <p>7 changes.</p> <p>8</p> <p>9</p> <p>10 _____</p> <p>11 TIMOTHY F. GOSSFELD</p> <p>12 [ ] No corrections</p> <p>13 [ ] Correction sheet(s) enclosed</p> <p>14</p> <p>15 SUBSCRIBED AND SWORN TO BEFORE ME, the</p> <p>16 undersigned authority, by the witness, TIMOTHY F.</p> <p>17 GOSSFELD, on this the ____ day of</p> <p>18 _____, _____.</p> <p>19</p> <p>20 _____</p> <p>21 NOTARY PUBLIC IN AND FOR</p> <p>22 THE STATE OF _____</p> <p>23 My Commission Expires: _____</p> <p>24</p> <p>25</p>	<p>1 CHANGES AND SIGNATURE</p> <table border="1"> <thead> <tr> <th>2 PAGE LINE</th> <th>CHANGE</th> <th>REASON</th> </tr> </thead> <tbody> <tr><td>3</td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> <tr> <td>25 DATE</td> <td colspan="2">SIGNATURE</td> </tr> </tbody> </table>	2 PAGE LINE	CHANGE	REASON	3			4			5			6			7			8			9			10			11			12			13			14			15			16			17			18			19			20			21			22			23			24			25 DATE	SIGNATURE	
2 PAGE LINE	CHANGE	REASON																																																																							
3																																																																									
4																																																																									
5																																																																									
6																																																																									
7																																																																									
8																																																																									
9																																																																									
10																																																																									
11																																																																									
12																																																																									
13																																																																									
14																																																																									
15																																																																									
16																																																																									
17																																																																									
18																																																																									
19																																																																									
20																																																																									
21																																																																									
22																																																																									
23																																																																									
24																																																																									
25 DATE	SIGNATURE																																																																								