

Brian Ross - 2/16/2006

1
2 IN THE DISTRICT COURT OF TARRANT COUNTY, TEXAS
3 67TH JUDICIAL DISTRICT

4 -----x
5 GAMAL ABDEL-HAFIZ,)
6 Plaintiff,)
7 v.) Cause No.
8 ABC, INC., ABC NEWS, INC., ABC) 067 203396 03
9 NEWS HOLDING COMPANY, INC.,)
10 DISNEY ENTERPRISES, INC., WFAA-)
11 TV, L.P., WFAA OF TEXAS, INC.,)
12 BELO CORP., CHARLES GIBSON,)
13 BRIAN ROSS, ROBERT WRIGHT and)
14 JOHN VINCENT,)
15 Defendants.)

16 -----x
17 February 16, 2006
18 10:15 a.m.
19

20 Deposition of BRIAN ROSS, held at the
21 offices of ABC News, 77 West 66th Street,
22 New York, New York, pursuant to notice, before
23 Donald R. DePew, an RPR, CRR and Notary Public
24 within and for the State of New York.
25

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1 Brian Ross
2 MR. KAITCER: Very well.
3 THE VIDEOGRAPHER: Will the court
4 reporter please swear in the witness.
5 BRIAN ROSS, called as a witness,
6 having been duly sworn by the Notary Public,
7 was examined and testified as follows:
8 EXAMINATION BY
9 MR. KAITCER:
10 Q. Could you state your name, please, sir.
11 A. Brian Ross.
12 Q. And, Mr. Ross, are you employed?
13 A. Yes, I am.
14 Q. How are you employed?
15 A. I work for ABC News.
16 Q. How long have you worked for ABC News?
17 A. Since 1994.
18 Q. Did you --
19 What is your position with ABC News?
20 A. My title is chief investigative
21 correspondent.
22 Q. How long have you had that title?
23 A. Since I joined the network.
24 Q. As the chief investigative
25 correspondent what are your basic job duties?

1 Brian Ross
2 A. My job is to develop and report
3 stories for Good Morning America, World News
4 Tonight, Nightline, Primetime, and 20/20, as well
5 as ABC Radio and the abcnews.com Web site.
6 Q. All right. Could you tell me a little
7 bit about your educational background.
8 A. I'm a graduate of the University of
9 Iowa with a bachelor of arts in journalism.
10 Q. Any postgraduate degrees or studies?
11 A. None.
12 Q. When did you graduate from the
13 University of Iowa?
14 A. 1971.
15 Q. Have you ever had your deposition taken
16 before?
17 A. Yes, I have.
18 Q. On how many occasions?
19 A. Twenty or 30.
20 Q. Okay. Were they in suits like this?
21 A. They were in conjunction with legal
22 actions, yes.
23 Q. Okay. Arising out of your employment
24 with ABC News?
25 A. For the most part and at a previous

1 Brian Ross
2 employer.
3 Q. Who was your previous employer?
4 A. NBC News.
5 Q. How long did you work for NBC News?
6 A. I worked for NBC News between 1974 and
7 1994, 20 years.
8 Q. And then you moved to ABC?
9 A. That's right.
10 Q. Have you ever --
11 Well, let me ask you this question,
12 between 1971 and 1974 what did you do?
13 A. I worked first at a television station
14 in Waterloo, Iowa, KWWL-TV. I then worked for a
15 brief time as a speech writer for the Governor of
16 Wisconsin, Patrick Lucey. I worked then as a
17 reporter at a TV station in Miami, WCKT-TV, the
18 NBC affiliate at the time. And then I was hired
19 to work in Cleveland at a station owned by NBC,
20 WKYC.
21 Q. And that's how you got your affiliation
22 with NBC and went with them for the next 20 years?
23 A. Right.
24 Q. Okay. Are you familiar with the
25 circumstances that brings us here today?

1 Brian Ross
2 A. What do you mean by that?
3 Q. Why are you sitting here?
4 A. I'm here to answer your questions.
5 Q. Okay. You understand that you are the
6 defendant in a lawsuit that's been brought by my
7 client, Special Agent Gamal Abdel-Hafiz?
8 A. Yes, I do.
9 Q. Okay. And you're aware that that arose
10 out of a program that took place that was
11 broadcast on ABC on December 19th, 2002?
12 A. Yes.
13 Q. And it was also on the ABC Web site,
14 some -- I don't know how you would want to refer
15 to it, I call it kind of ancillary written news
16 reporting available.
17 A. Those are stories posted on the
18 Web site.
19 Q. Okay. Is there a particular term of
20 art you use, other than "stories posted on the
21 Web site," or is that --
22 A. That describes it.
23 Q. Okay. Who was responsible for the -- I
24 guess for lack of a -- please feel free to correct
25 me, because I'm not really in the media business,

1 Brian Ross
2 but -- so if I use a term that is incorrect,
3 please feel free to correct me, okay?
4 Who was responsible for the content of
5 the broadcast material for the Primetime telecast
6 that took place on December 19th, 2002?
7 A. I was in conjunction with the producer
8 of the program, Vic Walter.
9 Q. What have you done to prepare yourself
10 for this deposition?
11 A. I have read the stories that were
12 broadcast three years ago or so, looked at the
13 tapes of them.
14 Q. Anything else?
15 A. I met with the lawyers who represent
16 me.
17 Q. Okay. When you went through the
18 statements --
19 You watched the videotape of the
20 broadcast on Primetime; is that correct?
21 A. Yes.
22 Q. To prepare yourself for this
23 deposition?
24 A. To refresh my memory.
25 Q. Sure.

<p style="text-align: right;">Page 9</p> <p>1 Brian Ross</p> <p>2 Were any of the statements that were</p> <p>3 made on that broadcast that you now think were</p> <p>4 incorrect or inaccurate?</p> <p>5 A. No.</p> <p>6 Q. Okay. As I understand it the lead-in</p> <p>7 to that particular broadcast began with the words,</p> <p>8 "Or how about this, a Muslim FBI agent accused of</p> <p>9 refusing orders to secretly record another Muslim</p> <p>10 suspected of terrorist connections"?</p> <p>11 A. I don't think that's how the lead-in</p> <p>12 began.</p> <p>13 Q. Okay. Tell me how the lead-in began,</p> <p>14 as far as you recall.</p> <p>15 A. I don't recall it, but I don't think it</p> <p>16 began in the middle of a sentence like that.</p> <p>17 Q. Okay. Do you recall a statement being</p> <p>18 made in the broadcast that a Muslim FBI agent was</p> <p>19 accused of refusing orders to secretly record</p> <p>20 another Muslim suspected of terrorist connections?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Who made that statement?</p> <p>23 A. It was Charles Gibson, the anchor of</p> <p>24 the program.</p> <p>25 Q. Who wrote the statement?</p>	<p style="text-align: right;">Page 11</p> <p>1 Brian Ross</p> <p>2 the suspicious incompetence of the FBI office in</p> <p>3 Saudi Arabia.</p> <p>4 Q. Okay. Who did you obtain those tips</p> <p>5 from?</p> <p>6 A. From a number of FBI sources at FBI</p> <p>7 headquarters who are confidential sources.</p> <p>8 Q. Are you refusing to tell me who those</p> <p>9 sources are?</p> <p>10 MR. BABCOCK: He's not going to answer</p> <p>11 who confidential sources are based on my</p> <p>12 instruction.</p> <p>13 Q. Are you following your attorney's</p> <p>14 instruction and refusing to answer that question?</p> <p>15 A. Yes, I am.</p> <p>16 Q. Were the individuals who gave you this</p> <p>17 information located at the FBI headquarters in</p> <p>18 Washington?</p> <p>19 MR. BABCOCK: He's not going to</p> <p>20 identify the confidential sources by</p> <p>21 implication, so I'm going to instruct him not</p> <p>22 to answer that question.</p> <p>23 But I don't think that -- and maybe he</p> <p>24 misunderstood your question. I don't think</p> <p>25 any of these people, based on my</p>
<p style="text-align: right;">Page 10</p> <p>1 Brian Ross</p> <p>2 A. I don't know.</p> <p>3 Q. Was it you?</p> <p>4 A. It was not.</p> <p>5 Q. Was it Vic Walter?</p> <p>6 A. No.</p> <p>7 Q. Who else would have written it?</p> <p>8 A. There are writers attached to the</p> <p>9 program. I don't recall now who the writer was at</p> <p>10 the time.</p> <p>11 Q. Who was responsible for the content of</p> <p>12 the program?</p> <p>13 A. Of the report?</p> <p>14 Q. Yes.</p> <p>15 A. I was responsible for the content of</p> <p>16 the report that I prepared.</p> <p>17 Q. Okay. And what about Mr. Walters?</p> <p>18 A. He and I worked together as a team. He</p> <p>19 was the producer and I was the reporter.</p> <p>20 Q. Okay. How was it that you first</p> <p>21 obtained information with respect to this whole</p> <p>22 incident?</p> <p>23 A. The first information we had were some</p> <p>24 tips from people inside the FBI who had discussed</p> <p>25 with us what they regarded as the incompetence --</p>	<p style="text-align: right;">Page 12</p> <p>1 Brian Ross</p> <p>2 understanding, have anything to do with the</p> <p>3 plaintiff's part of this story. I think you</p> <p>4 asked how the whole thing got rolling.</p> <p>5 MR. KAITCER: Well, first things first.</p> <p>6 Let's clear that up or clear up the issue.</p> <p>7 Q. Are you refusing to answer that</p> <p>8 question based upon your attorney's instruction?</p> <p>9 A. I am.</p> <p>10 Q. All right. With respect to the</p> <p>11 allegations of suspicious incompetence at the FBI</p> <p>12 offices in Saudi Arabia, who were the individuals</p> <p>13 that you were investigating at the FBI office in</p> <p>14 Saudi Arabia?</p> <p>15 A. There were only two FBI agents assigned</p> <p>16 there and we were told they both were under</p> <p>17 investigation for failing to follow-up a number of</p> <p>18 leads that had been forwarded from FBI</p> <p>19 headquarters to the office and that they were in</p> <p>20 the run-up to 9/11.</p> <p>21 Q. And who were those individuals?</p> <p>22 A. Your client and whoever the special</p> <p>23 agent in charge of -- I'm not sure -- legate, I</p> <p>24 guess is the term. A special agent I think by the</p> <p>25 name of Rattigan, if I recall correctly.</p>

<p style="text-align: right;">Page 13</p> <p>1 Brian Ross</p> <p>2 Q. All right. And after you obtained that</p> <p>3 information what did you do next?</p> <p>4 Let me go back and ask one question</p> <p>5 first before you answer that one.</p> <p>6 The tips that you received, were the</p> <p>7 tips given directly to you?</p> <p>8 A. Given to another member of the ABC News</p> <p>9 investigative team.</p> <p>10 Q. Who was that?</p> <p>11 A. Chris Isham.</p> <p>12 Q. Based upon this information that you</p> <p>13 obtained what did you do next?</p> <p>14 A. We attempted to try to verify it and</p> <p>15 see if we could develop that into a story.</p> <p>16 Contacted the FBI Press Office to seek some sort</p> <p>17 of comment on that.</p> <p>18 Q. Did you contact the FBI Press Office</p> <p>19 yourself?</p> <p>20 A. I did.</p> <p>21 Q. And whom did you speak to at the FBI</p> <p>22 Press Office?</p> <p>23 A. I talked to Mike Kortan.</p> <p>24 Q. And who is Mike Kortan?</p> <p>25 A. He's an FBI agent who I believe is</p>	<p style="text-align: right;">Page 15</p> <p>1 Brian Ross</p> <p>2 did the --</p> <p>3 Well, let me ask you this question, was</p> <p>4 there more than one person that gave you this</p> <p>5 particular information inside the FBI or was it</p> <p>6 just one?</p> <p>7 A. I got the information through</p> <p>8 Chris Isham, that initially was one person and</p> <p>9 then the second person said that he had heard the</p> <p>10 same thing, that there had been special inspection</p> <p>11 teams sent I think on more than one occasion to</p> <p>12 the embassy.</p> <p>13 Q. And what was the purpose of sending</p> <p>14 these special inspection teams to the agency?</p> <p>15 A. To investigate the performance of the</p> <p>16 agents there.</p> <p>17 Q. Okay. So this was sometime in November</p> <p>18 of 2002?</p> <p>19 A. Yes.</p> <p>20 Q. You didn't hear back from Special Agent</p> <p>21 Kortan?</p> <p>22 A. That's right.</p> <p>23 Q. What was the next development that took</p> <p>24 place with regard to the -- ultimately the</p> <p>25 broadcast that took place on December 19th, 2002?</p>
<p style="text-align: right;">Page 14</p> <p>1 Brian Ross</p> <p>2 assigned to the FBI Press Office.</p> <p>3 Q. And what did you ask of Mr. Kortan?</p> <p>4 A. Essentially, paraphrasing, that we had</p> <p>5 had heard reports that there was an investigation</p> <p>6 into the performance by the FBI office in</p> <p>7 Saudi Arabia, that there were more than a thousand</p> <p>8 leads connected to terrorism that the FBI agents</p> <p>9 in the office had failed to pursue. Could he</p> <p>10 offer us some guidance on that, was there anything</p> <p>11 to it, had there been special inspections sent in.</p> <p>12 Q. And what was Agent Kortan's response?</p> <p>13 A. "I'll get back to you."</p> <p>14 Q. What happened next, in terms of your</p> <p>15 developing the story?</p> <p>16 A. For several weeks, not much. We didn't</p> <p>17 get anything back from the FBI Press Office and we</p> <p>18 were sort of at a dead end. We had a tip, but we</p> <p>19 had no solid information that we were prepared to</p> <p>20 broadcast.</p> <p>21 Q. Approximately when did this take place,</p> <p>22 if you can remember?</p> <p>23 A. Sometime in November of 2002.</p> <p>24 Q. With regard to the suspicious</p> <p>25 incompetence, the alleged suspicious incompetence,</p>	<p style="text-align: right;">Page 16</p> <p>1 Brian Ross</p> <p>2 A. From a separate source, through the</p> <p>3 Judicial Watch group with whom we had worked in</p> <p>4 the past on other stories, we were contacted and</p> <p>5 asked if we'd be interested in talking to an FBI</p> <p>6 agent who was alleging that the FBI had failed to</p> <p>7 aggressively pursue terrorism leads in a case that</p> <p>8 involved wealthy Saudi financiers and the FBI</p> <p>9 office in Chicago.</p> <p>10 Q. Had you worked with the Judicial Watch</p> <p>11 group before?</p> <p>12 A. Yes.</p> <p>13 Q. What is Judicial Watch?</p> <p>14 A. It's a nonprofit group that is probably</p> <p>15 best known for its investigations of the</p> <p>16 fundraising of the Clinton administration. They</p> <p>17 were active in producing witnesses and documents</p> <p>18 that related to alleged illegal acts by the</p> <p>19 Clinton fundraisers that went to Chinese nationals</p> <p>20 giving money to the campaign of the president.</p> <p>21 Q. And did you speak with anyone at</p> <p>22 Judicial Watch yourself?</p> <p>23 A. At some point I did, I'm not sure at</p> <p>24 what point. I work with a team of producers and</p> <p>25 one of the producers who had worked with them was</p>

<p style="text-align: right;">Page 17</p> <p>1 Brian Ross</p> <p>2 contacted and then I took it over. They provided</p> <p>3 us with some documents.</p> <p>4 Q. Okay. Who provided you with documents?</p> <p>5 A. His name is Tom Freston.</p> <p>6 Q. How do you spell that?</p> <p>7 A. F-e-r-s-t-o-n, F-r-e-s-t-o-n.</p> <p>8 Q. And what is Tom Freston's position with</p> <p>9 the Judicial Watch?</p> <p>10 A. He was a lawyer and may have held the</p> <p>11 office of president. I don't recall.</p> <p>12 Q. And did you speak with Mr. Freston</p> <p>13 directly?</p> <p>14 A. I did.</p> <p>15 Q. And what did he report to you?</p> <p>16 A. That there was an interesting case.</p> <p>17 There was an FBI agent who was making allegations</p> <p>18 and who might be willing or able to go on camera</p> <p>19 and talk about his concerns that the FBI had done</p> <p>20 a poor job of investigating leads into terrorism.</p> <p>21 And this was at a time when there was a lot of</p> <p>22 talk and we were making a number of major efforts</p> <p>23 ourselves to look at the competence or lack</p> <p>24 thereof of the FBI in pursuing terrorism leads</p> <p>25 prior to 9/11.</p>	<p style="text-align: right;">Page 19</p> <p>1 Brian Ross</p> <p>2 cases against suspected terrorists.</p> <p>3 Q. Now, as you're developing this story do</p> <p>4 you know which particular -- let me rephrase that.</p> <p>5 ABC -- ABC News has a number of</p> <p>6 different possibilities for broadcast, in terms of</p> <p>7 which show you put it on basically, right?</p> <p>8 A. That's right.</p> <p>9 Q. Okay. And so you aren't assigned</p> <p>10 particularly to Primetime, are you?</p> <p>11 You're just -- you develop stories and</p> <p>12 they air whenever they air; is that correct?</p> <p>13 A. Well, they air when they're ready.</p> <p>14 Q. Right.</p> <p>15 A. Based on the story, and the nature of</p> <p>16 the story, and my sense of how long the story</p> <p>17 might be, how much information there is, I try to</p> <p>18 make a decision as to what's the best outlet.</p> <p>19 Q. Okay. And what are the considerations</p> <p>20 that go into making a determination about what is</p> <p>21 the best outlet?</p> <p>22 A. Timeliness, when it can be on, how soon</p> <p>23 it has to be on. If it has to go on tonight, it</p> <p>24 would be on World News Tonight. To prepare a</p> <p>25 program for one of the -- we call them the</p>
<p style="text-align: right;">Page 18</p> <p>1 Brian Ross</p> <p>2 Q. And who was that FBI agent?</p> <p>3 A. Bob Wright.</p> <p>4 Q. What was the next step that you</p> <p>5 undertook?</p> <p>6 A. I asked Vic Walter, the producer I work</p> <p>7 with, to meet with Wright's lawyer in Chicago.</p> <p>8 Q. And who is Wright's lawyer?</p> <p>9 A. Dave Shippers.</p> <p>10 Q. Was he also affiliated with Judicial</p> <p>11 Watch?</p> <p>12 A. He had a connection, I'm not sure what</p> <p>13 it was.</p> <p>14 Q. What happened next?</p> <p>15 A. Mr. Walter met Mr. Shippers.</p> <p>16 Q. Okay. Did Mr. Walter report to you</p> <p>17 what the substance was of his discussion with</p> <p>18 Mr. Shippers?</p> <p>19 A. At some point that -- Mr. Shippers felt</p> <p>20 that Agent Wright would be able to appear in a</p> <p>21 program on camera. And that a second agent,</p> <p>22 John Vincent, who also was with the FBI, was also</p> <p>23 prepared to appear and talk about what they</p> <p>24 thought were the shortcomings of the FBI</p> <p>25 headquarters and the reluctance to pursue criminal</p>	<p style="text-align: right;">Page 20</p> <p>1 Brian Ross</p> <p>2 magazine shows, either Primetime or 20/20, that</p> <p>3 takes a longer period of time. And those stories</p> <p>4 tend to be developed more around the individuals</p> <p>5 and their story. World News Tonight would be</p> <p>6 described perhaps as a harder news program --</p> <p>7 Q. Okay.</p> <p>8 A. -- in which the personalities are less</p> <p>9 important than the specific issues.</p> <p>10 Q. So the person -- Primetime is what you</p> <p>11 call a magazine show; is that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. And what night does that air?</p> <p>14 A. Thursday night.</p> <p>15 Q. Do you know what your audience is on</p> <p>16 Thursday nights?</p> <p>17 A. I do not.</p> <p>18 Q. It's a national broadcast, is it not?</p> <p>19 A. Yes, it is.</p> <p>20 Q. And you want to reach as many people as</p> <p>21 you can.</p> <p>22 A. Yes, we do.</p> <p>23 Q. Because when you have a story to tell</p> <p>24 you want everybody to hear it; isn't that right?</p> <p>25 A. That is correct.</p>

<p style="text-align: right;">Page 21</p> <p>1 Brian Ross</p> <p>2 Q. And was it you who made the decision to</p> <p>3 have this story air on Primetime as opposed to</p> <p>4 World News Tonight, or was it somebody else?</p> <p>5 A. Well, this story aired both on World</p> <p>6 News Tonight and on Primetime, portions of it.</p> <p>7 Q. Okay.</p> <p>8 A. It struck me that the story of</p> <p>9 Agents Wright and Vincent and the fact that they</p> <p>10 were coming forward was a very important</p> <p>11 development. It's very rare for active duty FBI</p> <p>12 agents to sit down in front of a national audience</p> <p>13 and criticize their own agency. I've only seen it</p> <p>14 a few times before. And I thought this would be</p> <p>15 an important story to tell.</p> <p>16 Q. Do you know if there are any directives</p> <p>17 from the FBI dealing with when active duty agents</p> <p>18 or employees can go on TV and talk to the media?</p> <p>19 A. Not really.</p> <p>20 Q. Why is it that this was a unique</p> <p>21 situation?</p> <p>22 A. To have active duty FBI agents</p> <p>23 criticize the FBI does not happen very often.</p> <p>24 Q. Okay. Do you know --</p> <p>25 Have you dealt with the FBI Press</p>	<p style="text-align: right;">Page 23</p> <p>1 Brian Ross</p> <p>2 A. Do you want me to speculate or --</p> <p>3 Q. Sure.</p> <p>4 You've been in the business for</p> <p>5 32 years now, right?</p> <p>6 A. That's right.</p> <p>7 Q. Okay. And surely you have found that</p> <p>8 in dealing with the FBI and other investigatory</p> <p>9 type agencies they don't give you a whole lot of</p> <p>10 details about their activities; isn't that right?</p> <p>11 A. I don't think that's a fair assumption.</p> <p>12 It depends on the agency, it depends on the time.</p> <p>13 Q. Okay. Let's talk about the FBI.</p> <p>14 You've dealt with the FBI before.</p> <p>15 A. For many years.</p> <p>16 Q. Okay. How would you describe their</p> <p>17 responsiveness to inquiries that you make?</p> <p>18 A. I think it depends. You're talking</p> <p>19 about a period of 30 or 35 years. It has been</p> <p>20 very responsive at times, very unresponsive at</p> <p>21 times. It depends on who's in charge and what the</p> <p>22 situation is.</p> <p>23 Q. And you're aware that the FBI has</p> <p>24 ongoing investigations; isn't that right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 22</p> <p>1 Brian Ross</p> <p>2 Office before?</p> <p>3 A. Yes, I have.</p> <p>4 Q. And why do you deal with the press</p> <p>5 office?</p> <p>6 A. When reporters contact the FBI, all</p> <p>7 contacts are by the FBI, the way they set things</p> <p>8 up. It's run officially through the press office,</p> <p>9 that's our first point of contact.</p> <p>10 Q. Okay. And why is that?</p> <p>11 A. I think from their point of view that's</p> <p>12 a tidier way of doing business. They keep track</p> <p>13 of the contacts and the idea they'll put us in</p> <p>14 touch with the right people and give us an</p> <p>15 official response.</p> <p>16 Q. Okay. And when you're dealing with</p> <p>17 police type agencies, FBI, things of that nature,</p> <p>18 typically wouldn't you say that they are reluctant</p> <p>19 to disclose a lot of information to you?</p> <p>20 A. I wouldn't say typically. I think it</p> <p>21 depends on the situation.</p> <p>22 Q. Okay. Do you know why there are</p> <p>23 occasions when an investigatory type agency, such</p> <p>24 as the FBI, would be reluctant to disclose a lot</p> <p>25 of information to you?</p>	<p style="text-align: right;">Page 24</p> <p>1 Brian Ross</p> <p>2 Q. And quite often they don't want to</p> <p>3 jeopardize the results of that information by</p> <p>4 disclosing -- I'm sorry, they don't want to</p> <p>5 jeopardize those investigations by disclosing</p> <p>6 information that might harm those investigations;</p> <p>7 isn't that right?</p> <p>8 A. You'd have to ask the FBI.</p> <p>9 Q. You have no idea?</p> <p>10 A. Well, I can -- I know what they might</p> <p>11 say.</p> <p>12 But you're asking what I think?</p> <p>13 Q. What do you think they would say?</p> <p>14 A. You'd have to ask them. I can't</p> <p>15 speculate.</p> <p>16 Q. Okay. Now, so you understood that</p> <p>17 there were two active duty FBI agents who were</p> <p>18 willing to come on camera and criticize their</p> <p>19 agency.</p> <p>20 A. Who -- yes, who had registered their</p> <p>21 complaints within the bureau and wanted to go</p> <p>22 public to talk about their concerns.</p> <p>23 Q. Okay. And those agents were Bob Wright</p> <p>24 and John Vincent?</p> <p>25 A. That's correct.</p>

Page 25

1 Brian Ross
2 Q. Did you do any background check on
3 Bob Wright?
4 A. What do you mean by "background check"?
5 Q. Well, did you -- that may not have been
6 a good use of a term of art.
7 Did you or anyone on behalf of ABC News
8 that you know of conduct any investigation into
9 his background?
10 A. Into his personal life?
11 Q. Or any problems that he might have had
12 with the FBI.
13 A. Well, to the extent that it was
14 available on the public record, we were able to do
15 that.
16 Q. Okay. And did you discover anything
17 that was available in the public record with
18 regard to --
19 A. He had held a news conference that had
20 been broadcast on C-Span earlier in the year
21 talking about similar concerns.
22 Q. Anything else?
23 A. At that point, no.
24 Q. Anything else that you did to determine
25 whether or not he had any problems in connection

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1 Brian Ross
2 with his employment at the FBI?
3 A. I came to learn of some of them from
4 documents he provided us.
5 Q. Okay. What problems did you come to
6 learn of that he had with the FBI?
7 A. That he had been essentially sued by
8 your client.
9 Q. Anything else?
10 A. Not that I recall.
11 Q. How about with Mr. Vincent, did you do
12 any background check into him?
13 A. No background check into his personal
14 life, no.
15 Q. Okay. When you say you discovered that
16 Agent Wright had been sued by my client, what do
17 you mean by that?
18 A. He provided us an affidavit that he had
19 given in conjunction with the complaint by your
20 client of discrimination.
21 Q. Was that a lawsuit?
22 A. I don't know exactly the legal term for
23 it, but it appeared to be a legal action taken
24 against Wright by your client.
25 Q. And when did this, as you call it,

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1 Brian Ross
2 legal action take place, as far as you know?
3 A. Sometime prior to the time we met him.
4 It created a record that he gave us,
5 various documents, his performance reviews, his
6 response to the complaint.
7 Q. Whose performance reviews?
8 A. Bob Wright's.
9 Q. Okay. What was the next step that you
10 undertook in the investigation that ultimately led
11 up to the broadcast?
12 A. We began to look into the claims that
13 Wright and Vincent were making about the people
14 they thought were likely targets of the
15 investigation. Individuals in Saudi Arabia, and a
16 possible connection of funding that went to the
17 bombings by Al Qaeda of the two U.S. embassies in
18 East Africa. Began to pull together what
19 documents we could find, public documents,
20 indictments, to get a basis for what they were
21 talking about and try to understand the context of
22 their allegations.
23 Q. Okay. Then what did you do?
24 A. At some point we scheduled an interview
25 with Mr. Wright and Mr. Vincent.

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1 Brian Ross
2 Q. And when did that interview take place?
3 A. December 8th or 9th. I forget, it was
4 somewhere in that time period.
5 Q. What did -- now when you interviewed
6 Agents Wright and Vincent on December 8th or 9th
7 was that interview ultimately aired on the
8 Primetime broadcast?
9 A. Portions of it were, yes.
10 Q. Okay. Was that the first time that you
11 talked to them in detail?
12 A. Yes.
13 Q. All right. As best you can recall,
14 what allegations were made by Agents Wright and
15 Vincent?
16 A. A number of allegations related to the
17 performance of the FBI in their view. They say
18 they had been ordered not to pursue criminal cases
19 against certain suspects who were suspected of
20 providing financing generated in the U.S., sent to
21 Al Qaeda.
22 Q. Who did they claim ordered them not to
23 pursue criminal cases?
24 A. I don't recall the names of the
25 individuals, but that essentially FBI headquarters

<p style="text-align: right;">Page 29</p> <p>1 Brian Ross</p> <p>2 and their own unit bosses, I guess. But</p> <p>3 essentially the orders came from Washington.</p> <p>4 Q. All right. What else did they tell</p> <p>5 you?</p> <p>6 A. They related their experience with</p> <p>7 Agent Hafiz.</p> <p>8 Q. Okay. Did Agents Wright or Vincent</p> <p>9 tell you that Special Agent Abdel-Hafiz had</p> <p>10 refused orders to secretly record another Muslim?</p> <p>11 A. Essentially, yes.</p> <p>12 Q. Did they tell you who gave the order to</p> <p>13 him?</p> <p>14 A. Well, it was much like how they</p> <p>15 felt they had been ordered by headquarters. The</p> <p>16 word came down, and they felt in the case of</p> <p>17 Agent Hafiz that essentially it was the -- and</p> <p>18 that team was sort of an ad hoc team that forms in</p> <p>19 any investigation. It was the Assistant U.S.</p> <p>20 attorneys who were running the case. The FBI</p> <p>21 agents were the worker bees in this case and they</p> <p>22 wanted him to do it and he refused.</p> <p>23 Q. Okay. Well, I want to make sure I</p> <p>24 understand the question, because there is no --</p> <p>25 I'm sorry, I want to make sure I understand your</p>	<p style="text-align: right;">Page 31</p> <p>1 Brian Ross</p> <p>2 understand my question so that I can understand</p> <p>3 your answer.</p> <p>4 You're telling the jury here that</p> <p>5 orders were given that he refused to obey to</p> <p>6 secretly record another Muslim; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. Who gave those orders?</p> <p>9 A. In the meeting run by the Assistant</p> <p>10 U.S. Attorney, whose name is Flessner -- this is</p> <p>11 the FBI, this is a paramilitary operation, the</p> <p>12 ad hoc --</p> <p>13 Q. Let me stop you there.</p> <p>14 MR. BABCOCK: Wait a minute. You</p> <p>15 jumped on me yesterday for interrupting</p> <p>16 people when they're giving an answer, so...</p> <p>17 MR. KAITCER: Okay. Well, I'm going to</p> <p>18 object to the responsiveness.</p> <p>19 Q. Is Mr. Flessner an employee of the FBI?</p> <p>20 A. Mr. Flessner is an employee of the</p> <p>21 Justice Department, as is everybody else in the</p> <p>22 FBI.</p> <p>23 Q. Okay. Do you know whether or not</p> <p>24 Assistant U.S. Attorney Flessner is empowered to</p> <p>25 give orders to anyone in the FBI?</p>
<p style="text-align: right;">Page 30</p> <p>1 Brian Ross</p> <p>2 response.</p> <p>3 There's no question that your broadcast</p> <p>4 had a recitation that a Muslim FBI agent -- and I</p> <p>5 assume you're referring to Special Agent Gamal</p> <p>6 Abdel-Hafiz; is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. Now as I understand it, his actual name</p> <p>9 was not recited on the program, was it?</p> <p>10 A. On the Primetime program it was not.</p> <p>11 Q. It was not.</p> <p>12 However, were there documents shown on</p> <p>13 the Primetime program whereby you could discern</p> <p>14 his name?</p> <p>15 A. There certainly were.</p> <p>16 Q. Okay. So that was on the broadcast?</p> <p>17 A. Yes.</p> <p>18 Q. And also his name was posted on the</p> <p>19 Web site, was it not, when the article was posted</p> <p>20 on the Web site?</p> <p>21 A. Twice, on that day and then in November</p> <p>22 we had done an earlier story, which we picked up</p> <p>23 on the Wall Street Journal story that dealt with</p> <p>24 your client's refusal.</p> <p>25 Q. Okay. And I want to make sure that you</p>	<p style="text-align: right;">Page 32</p> <p>1 Brian Ross</p> <p>2 A. I don't know what the legal powers are,</p> <p>3 but I do know how it works and I know how a case</p> <p>4 works. And in a case it's the U.S. Attorney who</p> <p>5 is running the case when a criminal case is being</p> <p>6 worked on. And in that setting he's the</p> <p>7 quarterback of the team.</p> <p>8 Q. And you're telling the jury that he has</p> <p>9 the power to order --</p> <p>10 Now, where is Special Agent Flessner,</p> <p>11 where is he located?</p> <p>12 A. Well, he's an Assistant U.S. Attorney</p> <p>13 in Chicago.</p> <p>14 Q. I misstated that, yes.</p> <p>15 He was an Assistant U.S. Attorney in</p> <p>16 Chicago.</p> <p>17 A. That's right.</p> <p>18 Q. He is now, I guess, in private practice</p> <p>19 in law or something like that, or do you know?</p> <p>20 A. I don't know.</p> <p>21 Q. But he was the Assistant U.S. Attorney</p> <p>22 in Chicago?</p> <p>23 A. Yes.</p> <p>24 Q. And Special Agent Gamal Abdel-Hafiz was</p> <p>25 a special agent in the Dallas office, right?</p>

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1 Brian Ross
 2 A. Yes.
 3 Q. And you knew that?
 4 A. I did know that.
 5 Q. And you have dealt with the FBI before,
 6 have you not?
 7 A. Yes.
 8 Q. And aren't you familiar with the FBI
 9 chain of command?
 10 A. I don't know what you mean by that.
 11 Q. Well, does he report -- who does
 12 Special Agent Gamal Abdel-Hafiz report to?
 13 A. I don't know.
 14 Q. Okay.
 15 A. Do you mean by name or --
 16 Q. By position.
 17 A. Section leader?
 18 I don't know how it breaks down.
 19 Q. Basically isn't it true that his boss
 20 would be the agent in charge of the Dallas office?
 21 A. I guess his boss would be the director
 22 of the FBI or the Attorney General.
 23 Q. Okay. But doesn't the director of the
 24 FBI delegate certain responsibilities to their
 25 agents in charge of their local offices?

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1 Brian Ross
 2 A. I think those jurisdictional lines are
 3 crossed when there are ongoing cases, and agents
 4 are assigned to certain cases, become involved in
 5 certain cases. It's a shifting ad hoc situation.
 6 Q. And this is -- your testimony is based
 7 on your familiarity with the FBI?
 8 A. Yes.
 9 Q. Well, was Special Agent Gamal
 10 Abdel-Hafiz assigned to the investigation that was
 11 being conducted by the Chicago U.S. Attorney's
 12 office or the Chicago FBI office?
 13 A. He was brought into the investigation.
 14 Q. Who brought him in?
 15 A. I don't know whether -- I think he
 16 brought himself in, frankly.
 17 Q. He brought himself in?
 18 A. He volunteered information which the
 19 U.S. Attorney thought was an important lead or key
 20 to the case and then refused to follow through.
 21 Q. He refused orders?
 22 A. Essentially, yes.
 23 Q. Well, that's what you said on the
 24 broadcast, that he refused orders.
 25 A. I don't think they were written orders.

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1 Brian Ross
 2 But in the context of the meeting and the way that
 3 the FBI and the U.S. Attorneys work in developing
 4 cases, it's tantamount to an order. This is a
 5 paramilitary operation. And from my experience
 6 and from what I was told by the people involved in
 7 the case, it's not an option.
 8 Q. Okay. You talked -- I may be getting
 9 way ahead of myself. But I want to ask you if you
 10 talked to a person named Danny Defenbaugh.
 11 A. I did not.
 12 Q. Do you know of anyone for ABC who did
 13 talk to Danny Defenbaugh?
 14 A. Yes.
 15 Q. Do you know who Danny Defenbaugh is or
 16 was?
 17 A. Yes.
 18 Q. Who is he?
 19 A. Right now he's a private investigator.
 20 At the time I think he was a former SAC, special
 21 agent in charge of the Dallas office.
 22 Q. Okay. He was Gamal Abdel-Hafiz's boss,
 23 wasn't he?
 24 A. I think we all have lots of bosses, he
 25 was one of the bosses.

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1 Brian Ross
 2 Q. He was his main boss at that location,
 3 right?
 4 MR. BABCOCK: Object to the form.
 5 Q. If you know.
 6 A. Main boss?
 7 He was a special agent in charge of the
 8 Dallas office.
 9 Q. What are the duties of a special agent
 10 in charge?
 11 A. I do not know.
 12 Q. Okay. Did anyone report to you what
 13 the substance was of their conversation with
 14 special agent in charge, Danny Defenbaugh?
 15 A. Did anyone -- Vic Walter talked with
 16 him.
 17 Q. Okay. And did Mr. Walter report to you
 18 what Danny Defenbaugh said?
 19 A. He may have. And I also was -- I had
 20 some information from the -- I guess it was from
 21 Vic, yeah. I'm trying to recall how I learned
 22 what Defenbaugh said from Vic.
 23 Q. Was it related to you that
 24 Danny Defenbaugh told you that it was his decision
 25 not to allow Special Agent Gamal Abdel-Hafiz to

<p style="text-align: right;">Page 37</p> <p>1 Brian Ross</p> <p>2 secretly record another Muslim?</p> <p>3 A. What the FBI told me was that he</p> <p>4 agreed with Agent Hafiz's decision, that it was</p> <p>5 Agent Hafiz's decision.</p> <p>6 Q. Who reported this to you?</p> <p>7 A. Mike Kortan, FBI Press Office.</p> <p>8 Q. What did Vic Walter tell you that</p> <p>9 Danny Defenbaugh told him?</p> <p>10 A. I don't recall the specifics.</p> <p>11 Q. Didn't the FBI Press Office indicate to</p> <p>12 you that the decision was made by the management</p> <p>13 of the Dallas office and that Chicago agreed to</p> <p>14 abide by that decision?</p> <p>15 A. I think they indicated to us that the</p> <p>16 Dallas office concurred with the decision.</p> <p>17 MR. KAITCER: Let me get this marked,</p> <p>18 if I could.</p> <p>19 Do you want to do these in a series</p> <p>20 like we had been?</p> <p>21 MR. BABCOCK: Yeah, I think so.</p> <p>22 MR. KAITCER: So where are we, 42 now?</p> <p>23 MR. BABCOCK: 42.</p> <p>24 MR. KAITCER: This may already be a</p> <p>25 prior exhibit.</p>	<p style="text-align: right;">Page 39</p> <p>1 Brian Ross</p> <p>2 Q. I'm going to show you what has been</p> <p>3 marked as Exhibit No. 42.</p> <p>4 Have you ever seen that document</p> <p>5 before?</p> <p>6 A. Yes.</p> <p>7 Q. What is that?</p> <p>8 A. This is the statement the FBI Press</p> <p>9 Office sent to us on the day of the broadcast in</p> <p>10 response to our inquiries.</p> <p>11 Q. Okay. I'm going to show you what has</p> <p>12 previously been marked as Exhibit 36 at a prior</p> <p>13 deposition.</p> <p>14 Is that the document that you're</p> <p>15 referring to that was -- that this exhibit was</p> <p>16 sent in response to?</p> <p>17 A. No.</p> <p>18 Q. What was Exhibit 42 sent in response</p> <p>19 to?</p> <p>20 A. A -- my request to the FBI for a</p> <p>21 statement following a 45-minute conversation I had</p> <p>22 with a number of FBI officials.</p> <p>23 Q. When was this 45-minute conversation?</p> <p>24 A. The day before or two days before the</p> <p>25 broadcast.</p>
<p style="text-align: right;">Page 38</p> <p>1 Brian Ross</p> <p>2 Let's just do it as 42. We'll do it</p> <p>3 this way.</p> <p>4 MR. BABCOCK: I think that's</p> <p>5 Exhibit 36, if I can just see it.</p> <p>6 MR. KAITCER: I want to make sure we've</p> <p>7 got the whole page. We can use 36, if you</p> <p>8 want.</p> <p>9 MR. BABCOCK: Just to avoid confusion.</p> <p>10 Is that it?</p> <p>11 MR. KAITCER: Yeah. Well, it's got --</p> <p>12 for some reason my version has three pieces</p> <p>13 of paper attached to it.</p> <p>14 MR. BABCOCK: This is the way it was</p> <p>15 produced to us by the Justice Department.</p> <p>16 MR. KAITCER: Okay.</p> <p>17 MR. BABCOCK: It did not have any</p> <p>18 attachments.</p> <p>19 MR. KAITCER: I'll do it like this,</p> <p>20 then, because this is really the document I</p> <p>21 want to do.</p> <p>22 Let's do this one then.</p> <p>23 (Exhibit 42, One-page document entitled</p> <p>24 FBI Statement, dated 12/19/02, marked for</p> <p>25 identification, as of this date.)</p>	<p style="text-align: right;">Page 40</p> <p>1 Brian Ross</p> <p>2 Q. With whom did you have this</p> <p>3 conversation, which officials, if you can</p> <p>4 remember?</p> <p>5 A. Mike Kortan was on the call from the</p> <p>6 press office and he set it up. And the senior</p> <p>7 official on the call, FBI, I'm not sure of his</p> <p>8 exact rank. His first name is Charles Prouty, who</p> <p>9 was in charge of the -- he's an official in the</p> <p>10 hierarchy in terms of counterterrorism.</p> <p>11 Q. Okay. Who else was in on that</p> <p>12 conversation?</p> <p>13 A. I don't recall the other names.</p> <p>14 Q. All right.</p> <p>15 A. There were three or four other FBI</p> <p>16 officials on the call.</p> <p>17 Q. Were you advised at that time that</p> <p>18 the --</p> <p>19 Was one of these individuals</p> <p>20 Rod Beverly?</p> <p>21 A. I don't recall.</p> <p>22 Q. Were you advised at that time that the</p> <p>23 decision not to record the conversations was made</p> <p>24 by executive management at Dallas?</p> <p>25 A. Not that I recall.</p>

<p style="text-align: right;">Page 41</p> <p>1 Brian Ross</p> <p>2 Q. Okay. Exhibit 42, which is the</p> <p>3 document that you've identified as the FBI's</p> <p>4 statement on the matter, indicates that ultimately</p> <p>5 the decision not to do the covert recording was</p> <p>6 made by management in the Dallas office and</p> <p>7 Chicago agreed to abide by that decision; isn't</p> <p>8 that correct?</p> <p>9 MR. BABCOCK: Do you want to let him</p> <p>10 see the document?</p> <p>11 MR. KAITCER: Sure.</p> <p>12 A. Where is that?</p> <p>13 Q. The middle of the last paragraph.</p> <p>14 (Witness looks at document.)</p> <p>15 A. It goes on to say the Dallas special</p> <p>16 agent and other supervisors concurred --</p> <p>17 Q. My question to you is --</p> <p>18 A. You're cutting in half what they say</p> <p>19 when you say it that way.</p> <p>20 Q. So I want to make sure I understand</p> <p>21 what your problem is, because I only recited one</p> <p>22 portion of the statement that is made by the FBI.</p> <p>23 You think the taking of that statement</p> <p>24 out of context puts this in an unfair light?</p> <p>25 MR. BABCOCK: Object to the form of the</p>	<p style="text-align: right;">Page 43</p> <p>1 Brian Ross</p> <p>2 Q. I'm going to show you what has been</p> <p>3 marked as Exhibit No. 43.</p> <p>4 Have you ever seen that document</p> <p>5 before?</p> <p>6 A. Can I just take a look?</p> <p>7 Take a second to take a look at it.</p> <p>8 Q. Surely.</p> <p>9 (Witness looks at document.)</p> <p>10 A. I haven't seen it. I haven't read it</p> <p>11 completely, but I don't recognize it, just from</p> <p>12 the first paragraph.</p> <p>13 Q. I will represent to you -- if you see</p> <p>14 the little markings at the bottom right-hand</p> <p>15 corner where it says ABCHAFIZ and it's numbered as</p> <p>16 No. 472. That's a document that was produced to</p> <p>17 us from you all, that's a Bates stamping --</p> <p>18 Do you understand that?</p> <p>19 A. No.</p> <p>20 Q. Do you know what Bates stamping is?</p> <p>21 A. No.</p> <p>22 Q. That's where you stamp documents,</p> <p>23 usually on the bottom right-hand corner, to</p> <p>24 reflect the fact that a document was identified.</p> <p>25 And I'll represent to you that the</p>
<p style="text-align: right;">Page 42</p> <p>1 Brian Ross</p> <p>2 question.</p> <p>3 Q. You can answer the question.</p> <p>4 A. I don't think it gives the complete</p> <p>5 context the way you described it.</p> <p>6 Q. And it's important to give the complete</p> <p>7 context, isn't it?</p> <p>8 A. I think so.</p> <p>9 MR. KAITCER: Okay. Well, the document</p> <p>10 speaks for itself.</p> <p>11 I'll move on to one other area of</p> <p>12 inquiry here.</p> <p>13 Let me check with your counsel. Is</p> <p>14 this already in evidence, Chip?</p> <p>15 MR. BABCOCK: Let me see.</p> <p>16 I don't think so.</p> <p>17 MR. KAITCER: Okay.</p> <p>18 MR. BABCOCK: I don't think so.</p> <p>19 MR. KAITCER: Let me get this marked,</p> <p>20 if I could.</p> <p>21 (Exhibit 43, Two-page document, the</p> <p>22 first page is a memo from Gamal Abdel-Hafiz</p> <p>23 to Charles Goodwin, bearing Bates stamp Nos.</p> <p>24 ABCHAFIZ 000472 and ABCHAFIZ 000473, marked</p> <p>25 for identification, as of this date.)</p>	<p style="text-align: right;">Page 44</p> <p>1 Brian Ross</p> <p>2 Bates stamping at the bottom right-hand corner of</p> <p>3 this was done by your attorney and he was kind</p> <p>4 enough to produce this document to us in response</p> <p>5 to a request that we sent. Okay?</p> <p>6 A. Yes.</p> <p>7 Q. All right. If you want to read over</p> <p>8 it...</p> <p>9 I'll be happy to let you take a few</p> <p>10 minutes to look at it. Then I need to ask you a</p> <p>11 question about some of the statements that are</p> <p>12 made in it.</p> <p>13 (Witness looks at document.)</p> <p>14 Q. Have you had a chance to look at that,</p> <p>15 Mr. Ross?</p> <p>16 A. I have.</p> <p>17 Q. Thank you.</p> <p>18 Do you know who Charles L. Goodwin is?</p> <p>19 A. I do not.</p> <p>20 Q. Do you know if he's an official in the</p> <p>21 FBI?</p> <p>22 A. I do not.</p> <p>23 Q. Okay. It appears that Mr. Goodwin is</p> <p>24 writing an e-mail or a memo to Special Agent Gamal</p> <p>25 Abdel-Hafiz. And in this document he appears</p>

<p style="text-align: right;">Page 45</p> <p>1 Brian Ross</p> <p>2 to be referring to some discussions between ABC</p> <p>3 folks and a telephone -- with respect to a</p> <p>4 telephone call that took place between</p> <p>5 Rod Beverly, Mike Kortan, Special Agent Goodwin,</p> <p>6 and someone at ABC who did the report.</p> <p>7 A. Uh-huh.</p> <p>8 Q. Do you see where it's referred to in</p> <p>9 that paragraph?</p> <p>10 A. It's hard to know because there are</p> <p>11 things blocked out.</p> <p>12 Q. Right. That was done -- I'll represent</p> <p>13 to you done by the Justice Department. It's the</p> <p>14 other Bates stamping on there that says USDJ at</p> <p>15 the bottom right.</p> <p>16 MR. BABCOCK: By the way, this document</p> <p>17 was produced by the Justice Department to us</p> <p>18 in context with this litigation.</p> <p>19 MR. KAITCER: Right, and then you</p> <p>20 produced it to me.</p> <p>21 MR. BABCOCK: Right.</p> <p>22 Q. In any event, there's a recitation in</p> <p>23 here that the day before it, meaning the Primetime</p> <p>24 piece, aired I sat in with blank on a telephone</p> <p>25 call between Rod Beverly, Mike Kortan, and, I</p>	<p style="text-align: right;">Page 47</p> <p>1 Brian Ross</p> <p>2 A. That's right.</p> <p>3 Q. Which also says that "Ultimately, the</p> <p>4 decision was made by management of the Dallas</p> <p>5 office," right?</p> <p>6 A. It says that.</p> <p>7 Q. And that's basically right along with</p> <p>8 Exhibit 43, which is this memo, which indicates</p> <p>9 that in the telephone conversation between, I</p> <p>10 guess, you and the other FBI folks it was noted</p> <p>11 that the decision not to record the conversation</p> <p>12 was made by executive management of Dallas.</p> <p>13 A. That's just not true, as you know.</p> <p>14 This statement says the decision was made by the</p> <p>15 agent, Hafiz, and then Dallas. The special agent</p> <p>16 in charge went along with it. This is a statement</p> <p>17 that has serious flaws, which we recognized the</p> <p>18 moment we got it.</p> <p>19 Q. I object to the responsiveness. The</p> <p>20 question I asked you is about Exhibit No. 43,</p> <p>21 which --</p> <p>22 And my question is, did the folks on</p> <p>23 that telephone call to you, that conference call</p> <p>24 that appears to be the subject of Exhibit No. 43,</p> <p>25 this memo, did those folks tell you that the</p>
<p style="text-align: right;">Page 46</p> <p>1 Brian Ross</p> <p>2 believe, blank at ABC, who did the report.</p> <p>3 Were you the individual that he's</p> <p>4 talking about in this recitation?</p> <p>5 A. I was involved in a conference call on</p> <p>6 the subject. I assume I am, but I don't know</p> <p>7 what's behind the black there.</p> <p>8 Q. Did you talk to Mike Beverly -- I'm</p> <p>9 sorry, Rod Beverly and Mike Kortan on the</p> <p>10 telephone on a conference call the day --</p> <p>11 A. I don't recall Rod Beverly. I know</p> <p>12 Mike Kortan and I know Prouty.</p> <p>13 Q. Okay. Did -- was it specifically</p> <p>14 noted, as this memo seems to indicate, that the</p> <p>15 decision not to record the conversation was made</p> <p>16 by executive management at Dallas?</p> <p>17 Do you recall them telling you that?</p> <p>18 A. I don't.</p> <p>19 You know, this was a conversation</p> <p>20 that -- the ground rules were that it was on</p> <p>21 background. And that whatever we would use</p> <p>22 formally would come to us in a statement. So it</p> <p>23 was the statement that would essentially be the</p> <p>24 FBI's crystallization of their position.</p> <p>25 Q. Well, the statement is Exhibit 42.</p>	<p style="text-align: right;">Page 48</p> <p>1 Brian Ross</p> <p>2 decision not to record the conversation was made</p> <p>3 by executive management at Dallas?</p> <p>4 A. That is not my recollection.</p> <p>5 Q. Okay. Do you know who Bob Garrity is?</p> <p>6 A. I do not.</p> <p>7 Q. Is your testimony that you never talked</p> <p>8 to Danny Defenbaugh; is that right?</p> <p>9 A. That is correct.</p> <p>10 Q. Any conversation with him would have</p> <p>11 been through your producer, Vic Walter?</p> <p>12 A. That's right.</p> <p>13 Q. Okay. Well, I got somewhat ahead of</p> <p>14 myself, so I'm going to go back now. I apologize</p> <p>15 for that. Normally I try to do them in</p> <p>16 chronological order, but sometimes the best laid</p> <p>17 plans of folks don't happen that way.</p> <p>18 Anyway we're back to -- I think going</p> <p>19 back to December, I think you said 8th or 9th when</p> <p>20 you had your meeting, portions of which you</p> <p>21 televised later on with Agents Wright and Vincent;</p> <p>22 is that correct?</p> <p>23 A. Right, it was a taped interview in</p> <p>24 Chicago.</p> <p>25 Q. Okay. Did you try to contact Special</p>

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1 Brian Ross
 2 Agent Abdel-Hafiz to get his side of the story?
 3 A. Yes, we had been for days before the
 4 interview even.
 5 Q. Okay. Are you aware that Special Agent
 6 Abdel-Hafiz is not supposed to talk to the media
 7 about ongoing investigations?
 8 A. I don't know what the rules are for
 9 him.
 10 Q. Well, have you ever -- you've dealt in
 11 many instances with investigatory bodies like the
 12 police, or state troopers, or whatever, right?
 13 A. I wasn't aware there was an ongoing
 14 investigation into his refusal.
 15 Q. Well, were you aware that he -- that
 16 there's ongoing investigations with regard to
 17 counterterrorism being conducted by the FBI?
 18 A. Certainly.
 19 Q. And wouldn't you -- would it surprise
 20 you that a special agent in the FBI would be
 21 reluctant to talk to you about his activities as
 22 it relates to counterterrorism?
 23 MR. BABCOCK: Object to the form.
 24 MR. KAITCER: He can answer it.
 25 A. Well, this didn't have anything to do

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1 Brian Ross
 2 with his activities in regard to counterterrorism,
 3 it had to do with his activities in refusing to
 4 cooperate in an investigation. We made an attempt
 5 to try to talk to him, if he wanted to defend his
 6 actions. We didn't ask him for any confidential
 7 information about any investigation. It really
 8 had to do with his decision not to wear the wire.
 9 Q. Well, you know that he -- that any law
 10 enforcement agent is going to have difficulty in
 11 talking to you about issues related to ongoing
 12 investigations; isn't that right?
 13 A. This was not connected to an ongoing
 14 investigation.
 15 Q. You didn't know that, did you?
 16 A. I was aware of no ongoing investigation
 17 into his refusal to wear a wire.
 18 Q. Well, are you aware that the FBI since
 19 9/11 has basically focused all of its time on
 20 counterterrorism, are you aware of that?
 21 A. I don't think that's accurate.
 22 Q. Okay. I'll rephrase it then and try to
 23 help you with it.
 24 Aren't you aware that the primary focus
 25 of the FBI since 9/11 has been counterterrorism?

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1 Brian Ross
 2 MR. BABCOCK: Object to the sidebar.
 3 Q. You can answer the question.
 4 A. I don't know what the actual numbers
 5 are on that. There may be --
 6 Q. You have no idea?
 7 A. Well, they spent a lot of time on it
 8 certainly. I don't know if it's all their time.
 9 Q. Okay. And you didn't know if Special
 10 Agent Abdel-Hafiz was involved in investigations
 11 dealing with counterterrorism that would prohibit
 12 him from talking to you about anything that took
 13 place in connection with the incident that you
 14 wanted to talk about, didn't you?
 15 A. Well, there -- there are two parts to
 16 your question. I can't answer that really yes or
 17 no.
 18 Q. Okay.
 19 A. I didn't know what investigations he
 20 was doing that dealt with actual counterterrorism
 21 matters. But I was not aware of any investigation
 22 into his refusal to go along with the decision to
 23 wear a wire.
 24 In any case, it's still my obligation
 25 as a reporter to attempt to contact him.

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1 Brian Ross
 2 Q. Okay. Let me make sure I understand
 3 you.
 4 With his refusal --
 5 MR. KAITCER: Let me get the court
 6 reporter to read back your answer, if I
 7 could, real quick. I want to make sure I
 8 understand what it was.
 9 (Record read.)
 10 Q. You were investigating his refusal to
 11 go along with the decision to wear a wire?
 12 MR. BABCOCK: Object to the form.
 13 Q. Is that correct?
 14 MR. BABCOCK: Same objection.
 15 Q. You can answer the question.
 16 A. I said I wasn't aware of any
 17 investigation into his refusal.
 18 Q. To go along with the decision to wear a
 19 wire?
 20 A. To go along with the decision to wear a
 21 wire or however you want to put it.
 22 Q. Who made the decision that he was
 23 supposed to wear a wire?
 24 A. The U.S. Attorney, Tom Flessner, along
 25 with the entire team of agents and other federal

<p style="text-align: right;">Page 53</p> <p>1 Brian Ross</p> <p>2 prosecutors. He was on the team and then he</p> <p>3 refused to be part of it.</p> <p>4 Q. Who told you he was on the team?</p> <p>5 A. The agents involved, Tom Flessner.</p> <p>6 MR. BABCOCK: I think you mean</p> <p>7 Mark Flessner.</p> <p>8 THE WITNESS: Mark Flessner, sorry. I</p> <p>9 have a friend named Tom, that's what I was</p> <p>10 thinking of. I'm sorry, Mark Flessner.</p> <p>11 MR. BABCOCK: Jeff, when you get to a</p> <p>12 breaking point, I need a bathroom break, but</p> <p>13 whenever. I mean...</p> <p>14 MR. KAITCER: I'm not going to hold out</p> <p>15 on you till you turn green.</p> <p>16 That's fine, we can stop now.</p> <p>17 THE VIDEOGRAPHER: Going off the record</p> <p>18 at 11:14.</p> <p>19 (Recess taken.)</p> <p>20 THE VIDEOGRAPHER: Back on the record,</p> <p>21 11:22.</p> <p>22 BY MR. KAITCER:</p> <p>23 Q. Mr. Ross, with your -- in your</p> <p>24 conversations with the FBI officials I think you</p> <p>25 had a 45-minute conversation with them the day</p>	<p style="text-align: right;">Page 55</p> <p>1 Brian Ross</p> <p>2 conference?</p> <p>3 A. I did not.</p> <p>4 Q. Did you take any notes on it?</p> <p>5 A. It was on background. I did not.</p> <p>6 Q. Was anyone else from ABC a part of that</p> <p>7 telephone call or telephone conference?</p> <p>8 A. Just me.</p> <p>9 Q. It was a long conference, I guess</p> <p>10 45 minutes, a lot of things were said during that</p> <p>11 time period.</p> <p>12 MR. BABCOCK: Object to the form.</p> <p>13 MR. KAITCER: I'll rephrase it then.</p> <p>14 Q. Were a lot of things said during that</p> <p>15 45-minute time period?</p> <p>16 A. Well, as much as you can say in</p> <p>17 45 minutes. I don't know what you --</p> <p>18 Q. Okay. I guess my question is to make</p> <p>19 sure that you had a proper recollection of that</p> <p>20 conversation. I'm just kind of surprised you</p> <p>21 wouldn't have taken any notes.</p> <p>22 A. Well, they told me -- as you</p> <p>23 understand, and maybe you don't, you asked me to</p> <p>24 correct you on -- a background conversation, sort</p> <p>25 of by the rules of the road between reporters and</p>
<p style="text-align: right;">Page 54</p> <p>1 Brian Ross</p> <p>2 before the broadcast aired; is that right?</p> <p>3 A. I'm not sure if it's the day before or</p> <p>4 two days before. Just shortly before, yes.</p> <p>5 Q. I understand it's been several years</p> <p>6 ago.</p> <p>7 But shortly before the broadcast aired</p> <p>8 do you remember having a 45 minute or so telephone</p> <p>9 conversation with FBI officials in a conference</p> <p>10 call?</p> <p>11 A. That's what they would call a</p> <p>12 background briefing.</p> <p>13 Q. All right. And as far as you know, was</p> <p>14 that the background briefing that is referenced --</p> <p>15 Is that background briefing -- that's a</p> <p>16 tongue twister -- the conversation that seems to</p> <p>17 be referenced on Exhibit No. 43?</p> <p>18 A. It seems like it, I don't really know.</p> <p>19 I wasn't involved in any other conversations.</p> <p>20 Q. And the time frame would be about</p> <p>21 right?</p> <p>22 A. Let's see.</p> <p>23 Is there a date on here?</p> <p>24 Yes, that's right.</p> <p>25 Q. Okay. Did you record that telephone</p>	<p style="text-align: right;">Page 56</p> <p>1 Brian Ross</p> <p>2 Washington agencies, is one in which it is for</p> <p>3 background. It's not for quotation. No one is to</p> <p>4 be quoted by name.</p> <p>5 And Mike Kortan said they would get us</p> <p>6 a statement that reflected their official position</p> <p>7 that we could use on the air. So I knew this was</p> <p>8 coming.</p> <p>9 Q. Okay. So everybody sort of follows the</p> <p>10 rules of the road in handling these types of</p> <p>11 matters; is that right?</p> <p>12 A. I do.</p> <p>13 Q. Okay. And similarly wouldn't you</p> <p>14 expect Special Agent Gamal Abdel-Hafiz to follow</p> <p>15 his rules of the road?</p> <p>16 A. I'm not sure what you mean by that.</p> <p>17 Q. Do you know if he has any rules of the</p> <p>18 road that he has to follow?</p> <p>19 A. I really don't know what you're talking</p> <p>20 about now.</p> <p>21 Q. Okay. I guess you were -- you thought</p> <p>22 that you had a very newsworthy story here because</p> <p>23 you had two currently employed FBI special agents</p> <p>24 who were willing to go on camera, right?</p> <p>25 A. That was at the initial stage of the</p>

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<p>1 Brian Ross</p> <p>2 story.</p> <p>3 Q. Yes.</p> <p>4 A. The story got better as it went along.</p> <p>5 Q. What do you mean it "got better"?</p> <p>6 A. Well, as we developed the information</p> <p>7 about the fact that the person who had refused to</p> <p>8 wear the wire in a terrorism investigation,</p> <p>9 because he said Muslims don't record Muslims, was</p> <p>10 then transferred and assigned to perhaps the most</p> <p>11 sensitive post possible for the FBI in the Saudi</p> <p>12 embassy. That struck me as an even bigger story.</p> <p>13 Q. Okay. And -- but in any event --</p> <p>14 Do you know how many Muslims -- I'm</p> <p>15 sorry, Arabic speaking special agents there are in</p> <p>16 the FBI?</p> <p>17 A. I do not.</p> <p>18 Q. Did you think there was a question</p> <p>19 concerning Special Agent Gamal Abdel-Hafiz's</p> <p>20 loyalty to this country?</p> <p>21 A. There's a question concerning his</p> <p>22 competence.</p> <p>23 Q. So you think it's a question of</p> <p>24 competence as opposed to loyalty?</p> <p>25 A. That was the question that was raised</p>	<p>1 Brian Ross</p> <p>2 A. They do not.</p> <p>3 Q. That wouldn't be appropriate, would it?</p> <p>4 A. What's that?</p> <p>5 Q. To consult with you before making</p> <p>6 decisions.</p> <p>7 A. That's not their custom.</p> <p>8 Q. And it just wouldn't be appropriate,</p> <p>9 because they have their job and you have yours and</p> <p>10 those jobs are entirely different, aren't they?</p> <p>11 A. They are.</p> <p>12 Q. In any event -- and I apologize, I keep</p> <p>13 going down different tracks. I should probably</p> <p>14 try to stay more on track, but --</p> <p>15 MR. BABCOCK: Rabbit trails.</p> <p>16 MR. KAITCER: I don't know that I would</p> <p>17 call it "rabbit trails," but I appreciate</p> <p>18 your advice on how I should characterize it.</p> <p>19 Q. In any event, one of the things that I</p> <p>20 did want to go over briefly before I try to go</p> <p>21 back to the main trail, is that in terms of the</p> <p>22 rules of the road, so to speak, you did not expect</p> <p>23 Special Agent Gamal Abdel-Hafiz to speak to you</p> <p>24 about these allegations, did you?</p> <p>25 A. I didn't know what to expect.</p>
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<p>1 Brian Ross</p> <p>2 with us, that he was accused of refusing to do</p> <p>3 this because of sensitivity regarding members of</p> <p>4 his religion.</p> <p>5 Q. Well, is that a competence issue or is</p> <p>6 that a loyalty issue?</p> <p>7 A. Well, you could frame it any way you</p> <p>8 wanted, but it became a competence issue when he's</p> <p>9 assigned to a country where it's primarily Muslim,</p> <p>10 where the suspects would be primarily Muslim. He</p> <p>11 might have been at a disadvantage to be in that</p> <p>12 position.</p> <p>13 Q. But if he's one of the few Arabic</p> <p>14 speaking special agents in the FBI wouldn't it be</p> <p>15 only natural and logical that he would be posted</p> <p>16 to Saudi Arabia?</p> <p>17 A. I don't know that he is one of the few</p> <p>18 Arabic speaking.</p> <p>19 Q. Okay. There's a lot of stuff that you</p> <p>20 don't know that goes on behind the reasons why the</p> <p>21 FBI does things; isn't that right?</p> <p>22 A. I would assume that's true. I don't</p> <p>23 know.</p> <p>24 Q. They don't consult with you prior to</p> <p>25 making decisions.</p>	<p>1 Brian Ross</p> <p>2 Q. Well, you knew that there's an FBI</p> <p>3 information office, you'd dealt with it before,</p> <p>4 and especially with Special Agent Mike Kortan;</p> <p>5 isn't that right?</p> <p>6 A. I have dealt with Mike Kortan.</p> <p>7 Q. And you know the reason why you decided</p> <p>8 to air this story was because you had currently</p> <p>9 employed FBI agents speaking out on national TV.</p> <p>10 A. That's right.</p> <p>11 Q. And that's a very unusual occurrence,</p> <p>12 isn't it?</p> <p>13 A. It is.</p> <p>14 Q. Because their rules of the road are</p> <p>15 they're not supposed to speak out while they're</p> <p>16 currently employed; isn't that right?</p> <p>17 MR. BABCOCK: Object to the form.</p> <p>18 A. I don't know if that's true.</p> <p>19 Q. In any event, this was such a</p> <p>20 surprising development that you thought it</p> <p>21 deserved national air time?</p> <p>22 A. Well, for two agents to -- not</p> <p>23 necessarily speak out, but to criticize in harsh</p> <p>24 terms their own agency a year after the 9/11</p> <p>25 attacks, and to say that because of the FBI's</p>

<p style="text-align: right;">Page 61</p> <p>1 Brian Ross</p> <p>2 failures people died, that was a very strong news</p> <p>3 story.</p> <p>4 Q. But you don't know, nor do they know if</p> <p>5 the investigation that they were trying to develop</p> <p>6 in Chicago would actually have stopped the 9/11</p> <p>7 terrorist attacks; isn't that right?</p> <p>8 MR. BABCOCK: Object to the form.</p> <p>9 Same objection.</p> <p>10 Q. You can answer it.</p> <p>11 A. What I do know is that the people --</p> <p>12 some of the people that they were after are --</p> <p>13 since they went on our program some of those</p> <p>14 targets have since been indicted. They are on</p> <p>15 trial now in Chicago for financing terrorism.</p> <p>16 Q. Who are those individuals?</p> <p>17 A. One of them is Mohammed Salah, he was</p> <p>18 one of the targets Bob Wright and John Vincent</p> <p>19 felt they had been prevented from going after. I</p> <p>20 know another target, Yassin Al-Kadi, has now been</p> <p>21 identified by the Justice Department, the Treasury</p> <p>22 Department as financing terrorism. Those were two</p> <p>23 of the people that were key targets that they were</p> <p>24 going after in 1998, 1999, and they feel they were</p> <p>25 prevented from doing so.</p>	<p style="text-align: right;">Page 63</p> <p>1 Brian Ross</p> <p>2 A. For lying.</p> <p>3 Q. Was he fired for any connection with</p> <p>4 the allegations that were made in the Primetime</p> <p>5 broadcast of December 19th, 2002?</p> <p>6 A. No, not specifically.</p> <p>7 Q. So his being fired had absolutely</p> <p>8 nothing to do with this particular investigation,</p> <p>9 did it?</p> <p>10 A. Well, I think it had to do with his</p> <p>11 truthfulness or lack thereof.</p> <p>12 Q. Okay. So you think that his firing did</p> <p>13 have a connection with this broadcast then?</p> <p>14 A. No, I'm not saying that. I'm saying</p> <p>15 that it reflects on his truthfulness.</p> <p>16 Q. So I guess there is a connection</p> <p>17 between this investigation and his firing?</p> <p>18 A. No, there's a connection between this</p> <p>19 investigation and his truthfulness.</p> <p>20 Q. Okay. Do you know if Special Agent</p> <p>21 Gamal Abdel-Hafiz was reinstated?</p> <p>22 A. I see him sitting here now with a badge</p> <p>23 and a gun, I assume he is.</p> <p>24 Q. Has anyone told you he's been</p> <p>25 reinstated?</p>
<p style="text-align: right;">Page 62</p> <p>1 Brian Ross</p> <p>2 Q. One other thing that you said before we</p> <p>3 broke, you said that -- we were talking about</p> <p>4 Mr. Flessner.</p> <p>5 And it's your belief that Special Agent</p> <p>6 Abdel-Hafiz had the obligation to follow the</p> <p>7 orders of Assistant U.S. Attorney Mark Flessner;</p> <p>8 is that correct?</p> <p>9 A. Well, it's his belief and it's the</p> <p>10 belief of the agents who were involved in that</p> <p>11 case. It's their accusation.</p> <p>12 Q. And did they use the word "orders" in</p> <p>13 talking with you?</p> <p>14 A. They used the words "insubordination,"</p> <p>15 "refusal." This wasn't a polite request. You</p> <p>16 decline a request, you refuse an order. He</p> <p>17 refused.</p> <p>18 Q. Well, if Mr. Flessner, Attorney</p> <p>19 Flessner, is his superior and supervisor in the</p> <p>20 matter or his boss, so to speak, doesn't he have</p> <p>21 the power to discipline Special Agent Abdel-Hafiz?</p> <p>22 A. I think there were recommendations that</p> <p>23 he, in fact, be disciplined. And as I recall, he</p> <p>24 was fired.</p> <p>25 Q. And why was he fired?</p>	<p style="text-align: right;">Page 64</p> <p>1 Brian Ross</p> <p>2 A. Someone told me that.</p> <p>3 Q. Who told you?</p> <p>4 A. One of my lawyers.</p> <p>5 MR. BABCOCK: Don't talk about</p> <p>6 conversations we had. He's not asking for</p> <p>7 that.</p> <p>8 THE WITNESS: I'm sorry.</p> <p>9 Q. You can assume, Mr. Ross -- and you can</p> <p>10 just tell me, to say that that would be</p> <p>11 confidential, I'll understand. I don't want to</p> <p>12 know any conversations you've had with any of your</p> <p>13 lawyers. So if you can just say I can't discuss</p> <p>14 that or that's attorney-client privilege, that's</p> <p>15 fine. I don't want to get into that. But if</p> <p>16 someone else told you, I do want to hear about it,</p> <p>17 okay?</p> <p>18 A. Right.</p> <p>19 Q. Did you make any notes whatsoever in</p> <p>20 developing your story?</p> <p>21 A. My notes really are the recorded</p> <p>22 interviews that I do, those are my notes. As a</p> <p>23 broadcast reporter we don't have to take down</p> <p>24 things that people say. We do broadcast</p> <p>25 interviews. The notes are on tape.</p>

<p style="text-align: right;">Page 65</p> <p>1 Brian Ross</p> <p>2 Q. Well, what appears that is broadcast is</p> <p>3 not the entire interview, is it?</p> <p>4 A. That's right.</p> <p>5 Q. There are other -- there's other</p> <p>6 information that was imparted to you that was, I</p> <p>7 guess, visually and audibly recorded that does not</p> <p>8 appear to the general public.</p> <p>9 A. We shoot a lot more than we put on the</p> <p>10 air.</p> <p>11 Q. Right.</p> <p>12 Do you know who it was that Special</p> <p>13 Agent Gamal Abdel-Hafiz was asked to wear a</p> <p>14 wire -- that's a badly worded statement.</p> <p>15 Let me see if I can try -- I'll try</p> <p>16 again.</p> <p>17 MR. BABCOCK: Who was he supposed to</p> <p>18 record?</p> <p>19 MR. KAITCER: There you go.</p> <p>20 Q. Who was he supposed to record?</p> <p>21 A. I don't know the name.</p> <p>22 Q. In fact, I'd like Mr. Babcock to ask</p> <p>23 the rest of my questions. I'm sure that he --</p> <p>24 MR. BABCOCK: It would only be about</p> <p>25 five more minutes then. I'm out of</p>	<p style="text-align: right;">Page 67</p> <p>1 Brian Ross</p> <p>2 Q. So you flew out to Chicago, did the</p> <p>3 interview with Wright and Vincent, came back, what</p> <p>4 happened after that?</p> <p>5 A. Then I began to assemble the piece,</p> <p>6 think about how we would do it, what we would put</p> <p>7 in there. We were making efforts to contact</p> <p>8 Agent Hafiz. We were in contact with the FBI</p> <p>9 office. We were in contact with the office of</p> <p>10 Senator Charles Grassley. Pulled together other</p> <p>11 video footage that would help explain the story,</p> <p>12 gather other documents, and began to sit down to</p> <p>13 write the story.</p> <p>14 Q. You say that you were trying to think</p> <p>15 about how to write the story.</p> <p>16 What were you focusing on with respect</p> <p>17 to the story?</p> <p>18 A. I was focusing on what is the way to</p> <p>19 tell the story of Agents Wright and Vincent. What</p> <p>20 were the key parts of the story that would be</p> <p>21 important and of interest to our viewers, which</p> <p>22 program should this go on, et cetera.</p> <p>23 Q. Did you do any other investigative work</p> <p>24 prior to the airing of the Primetime broadcast on</p> <p>25 December 19th, 2002?</p>
<p style="text-align: right;">Page 66</p> <p>1 Brian Ross</p> <p>2 questions.</p> <p>3 MR. KAITCER: I better go ahead and try</p> <p>4 to continue.</p> <p>5 Q. Okay. I believe before we digressed I</p> <p>6 was talking about what particular portion of the</p> <p>7 investigation...</p> <p>8 You recorded Agents Wright and Vincent</p> <p>9 on December 8th or 9th.</p> <p>10 What did you proceed to do next?</p> <p>11 A. I flew to Chicago to do the interview,</p> <p>12 returned here and began to assemble that</p> <p>13 interview. My colleague, Vic Walter, had</p> <p>14 interviewed Mark Flessner.</p> <p>15 Q. Did you ever talk to Flessner yourself?</p> <p>16 A. At some point I did, but not -- I was</p> <p>17 not there for the interview. I happened to be</p> <p>18 sick, very sick. So I did the interview and came</p> <p>19 home.</p> <p>20 And Mr. Walter also interviewed</p> <p>21 Barry Carmody, the FBI agent in Florida who had</p> <p>22 similar dealings with Agent Hafiz.</p> <p>23 Q. You didn't talk to Barry Carmody,</p> <p>24 though; is that correct?</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">Page 68</p> <p>1 Brian Ross</p> <p>2 A. Other than what I've described to you?</p> <p>3 Q. Yes.</p> <p>4 A. There may have been other calls I made,</p> <p>5 but those were the highlights of it. Those were</p> <p>6 the central points that I can recall.</p> <p>7 Q. You say you talked to Mark Flessner.</p> <p>8 A. I talked to him the day of the</p> <p>9 broadcast.</p> <p>10 Q. Did you talk to him in person or on the</p> <p>11 telephone?</p> <p>12 A. On the telephone.</p> <p>13 Q. What did Mr. Flessner relate to you?</p> <p>14 A. I called him after we received the</p> <p>15 statement from the FBI, which alleged that</p> <p>16 Agent Hafiz decided not to wear a microphone</p> <p>17 because the conversation was taking place in a</p> <p>18 mosque. And Mr. Flessner said that was a lie.</p> <p>19 Q. Okay. Any other things that you and he</p> <p>20 discussed that you can remember?</p> <p>21 A. Not at that point, no. But that was</p> <p>22 the central point, because that was something we</p> <p>23 hadn't heard before and opened up sort of a new</p> <p>24 avenue to explore. It turns out it was a lie,</p> <p>25 that was not the context of the meeting.</p>

<p style="text-align: right;">Page 69</p> <p>1 Brian Ross</p> <p>2 Q. Did you, yourself, try to get a hold of</p> <p>3 Special Agent Abdel-Hafiz?</p> <p>4 A. I asked one of the producers who worked</p> <p>5 with me at the time to take on that project and do</p> <p>6 nothing but try to get a hold of him.</p> <p>7 Q. Okay. Were you -- you've been doing</p> <p>8 this for 32 years now, right?</p> <p>9 A. 35.</p> <p>10 Q. 35 total.</p> <p>11 MR. BABCOCK: Give or take a year.</p> <p>12 Q. Were you surprised that Special Agent</p> <p>13 Abdel-Hafiz would not make any statement to you --</p> <p>14 MR. BABCOCK: Object to --</p> <p>15 Q. -- or to Primetime?</p> <p>16 MR. BABCOCK: Object to the form.</p> <p>17 A. I've seen it happen a number of ways.</p> <p>18 Sometimes people will talk, sometimes they won't.</p> <p>19 Nevertheless it's my obligation to try to get a</p> <p>20 response or a comment.</p> <p>21 Q. Okay. My question to you is, were you</p> <p>22 surprised that he wouldn't comment?</p> <p>23 A. Not particularly.</p> <p>24 Q. Why?</p> <p>25 A. Maybe he didn't want to talk about it.</p>	<p style="text-align: right;">Page 71</p> <p>1 Brian Ross</p> <p>2 you didn't sign a verification on the back of</p> <p>3 that. And I'm not sure I ever got a signed</p> <p>4 version of it.</p> <p>5 MR. BABCOCK: I believe he did verify</p> <p>6 them.</p> <p>7 MR. KAITCER: Okay.</p> <p>8 Q. I just want to make sure that I've</p> <p>9 got -- it appears to be signed by your attorney,</p> <p>10 Mr. Babcock.</p> <p>11 MR. BABCOCK: It's probably Latham's</p> <p>12 signature there.</p> <p>13 THE WITNESS: Robert Latham.</p> <p>14 Q. Okay. That's one of your attorneys?</p> <p>15 A. Mr. Latham and Mr. Babcock.</p> <p>16 Q. Do you remember signing the answers to</p> <p>17 these interrogatories?</p> <p>18 A. Yes, I do. I helped review it, prepare</p> <p>19 it.</p> <p>20 Q. Okay. And you looked at it very</p> <p>21 carefully?</p> <p>22 A. I did.</p> <p>23 Q. Okay. I note with respect to</p> <p>24 interrogatory No. 4 and your answer to 4-g where</p> <p>25 we asked, "Did anyone involved in the preparation</p>
<p style="text-align: right;">Page 70</p> <p>1 Brian Ross</p> <p>2 I don't really know what his motives were. He</p> <p>3 told us the FBI would issue a statement on his</p> <p>4 behalf.</p> <p>5 MR. KAITCER: Let me get this marked,</p> <p>6 if I could.</p> <p>7 (Exhibit 44, Multipage document</p> <p>8 entitled Defendant Brian Ross's Response to</p> <p>9 Plaintiff Gamal Abdel-Hafiz First Set of</p> <p>10 Interrogatories, marked for identification,</p> <p>11 as of this date.)</p> <p>12 Q. Mr. Ross, I'm going to show you</p> <p>13 Deposition Exhibit No. 44.</p> <p>14 Have you ever seen that document</p> <p>15 before?</p> <p>16 A. Let's take a look at it to see what it</p> <p>17 is.</p> <p>18 (Witness looks at document.)</p> <p>19 A. Yes, I have.</p> <p>20 Q. Okay. And what is that document?</p> <p>21 A. These are answers to questions you</p> <p>22 posed to us in written form.</p> <p>23 Q. Right, answers to interrogatories.</p> <p>24 A. Right.</p> <p>25 Q. I note that the copy that I have here</p>	<p style="text-align: right;">Page 72</p> <p>1 Brian Ross</p> <p>2 of the script examine the minutes" -- I'm sorry,</p> <p>3 "records or minutes of any administrative,</p> <p>4 judicial, or legislative investigatory proceeding</p> <p>5 to obtain information used in the preparation of</p> <p>6 the script?"</p> <p>7 And then I ask you a number of</p> <p>8 questions about that, if the answer was "yes."</p> <p>9 One of the matters that you indicate in</p> <p>10 your answer to interrogatories, subparagraph g, it</p> <p>11 says "The United States Attorneys Office in</p> <p>12 Massachusetts."</p> <p>13 Do you see where it says that?</p> <p>14 A. Yes.</p> <p>15 Q. Would you read your answer for the</p> <p>16 jury.</p> <p>17 A. "The United States Attorneys Office in</p> <p>18 Massachusetts. Defendant consulted various</p> <p>19 documents relating to the raid on the offices of</p> <p>20 P-Tech for purposes of showing the connection to</p> <p>21 al-Kadi, the person whom Plaintiff was asked to</p> <p>22 record. These documents are officially recorded</p> <p>23 in the United States District Court in</p> <p>24 Massachusetts."</p> <p>25 Q. Okay. Was it you, yourself, who looked</p>

<p style="text-align: right;">Page 73</p> <p>1 Brian Ross</p> <p>2 at the documents in the U.S. Attorneys Office in</p> <p>3 Massachusetts?</p> <p>4 A. It was Mr. Walter.</p> <p>5 Q. Okay. It wasn't you?</p> <p>6 A. He may have brought them back. He was</p> <p>7 present for the raid.</p> <p>8 Q. Okay. And the connection with the U.S.</p> <p>9 Attorneys Office in Massachusetts and the case</p> <p>10 that brings us here today is what?</p> <p>11 A. The connection is that they conducted</p> <p>12 an investigation of a possible terror connection</p> <p>13 to a company owned, controlled, run by Yassin</p> <p>14 Al-Kadi, who was the principal suspect or a</p> <p>15 principal suspect in Bob Wright's investigation.</p> <p>16 Q. And P-Tech was Yassin Al-Kadi's</p> <p>17 company?</p> <p>18 A. He's connected to it in ways that</p> <p>19 weren't clear. He was suspected of being</p> <p>20 connected to it. He is on the United States</p> <p>21 government's list of suspected terror financiers.</p> <p>22 His accounts are frozen.</p> <p>23 Q. And your answers to interrogatories</p> <p>24 here indicates that Al-Kadi is the person whom</p> <p>25 plaintiff was asked to record, do they not?</p>	<p style="text-align: right;">Page 75</p> <p>1 Brian Ross</p> <p>2 redacted?</p> <p>3 A. Yes.</p> <p>4 Q. Why are they redacted?</p> <p>5 A. There are a number of reasons for that.</p> <p>6 Q. What are those reasons that you're</p> <p>7 familiar with?</p> <p>8 A. The names of individuals are not</p> <p>9 revealed because of privacy concerns, ongoing</p> <p>10 investigations. There are a number of reasons for</p> <p>11 that. They aren't -- weren't always cited to us,</p> <p>12 but those are some of the reasons I know of.</p> <p>13 Q. All right. And they're doing their job</p> <p>14 in holding that information back from you because</p> <p>15 it's information that should not be in the public</p> <p>16 domain; isn't that right?</p> <p>17 MR. BABCOCK: Sometimes there's a</p> <p>18 dispute about that, but...</p> <p>19 Q. Isn't that why they do it?</p> <p>20 A. That's why they say they do it.</p> <p>21 MR. KAITCER: Okay. Let's go off the</p> <p>22 record for just a second.</p> <p>23 THE VIDEOGRAPHER: Going off the</p> <p>24 record, 11:47.</p> <p>25 (Recess taken.)</p>
<p style="text-align: right;">Page 74</p> <p>1 Brian Ross</p> <p>2 A. Yeah. I don't think that's correct, if</p> <p>3 that's what it says.</p> <p>4 I don't know who he was asked to</p> <p>5 record.</p> <p>6 Q. Okay. Well, you reviewed these</p> <p>7 answers; isn't that right?</p> <p>8 A. I did. But I guess I didn't catch</p> <p>9 this.</p> <p>10 Q. Okay.</p> <p>11 A. Al-Kadi, in our view, was connected to</p> <p>12 the person who Mr. -- Agent Hafiz was asked to</p> <p>13 record. There was a direct connection to Al-Kadi.</p> <p>14 Q. Who was that person, do you know?</p> <p>15 A. The name is blocked out on the</p> <p>16 documents we have, so I don't know the name of the</p> <p>17 person.</p> <p>18 Q. Who blocked it out?</p> <p>19 A. The copy I received was redacted.</p> <p>20 Q. Do you know who did that?</p> <p>21 A. I do not.</p> <p>22 Q. Was it the Department of Justice?</p> <p>23 A. I don't know.</p> <p>24 Q. Have you ever had documents obtained</p> <p>25 from the Department of Justice before that were</p>	<p style="text-align: right;">Page 76</p> <p>1 Brian Ross</p> <p>2 THE VIDEOGRAPHER: Back on the record,</p> <p>3 11:49.</p> <p>4 BY MR. KAITCER:</p> <p>5 Q. Mr. Ross, I'm going to show you what</p> <p>6 has already been identified and marked as Exhibit</p> <p>7 No. 23.</p> <p>8 Are you familiar with that document?</p> <p>9 A. Yes.</p> <p>10 Q. What is that document?</p> <p>11 A. It appears to be a poor Xerox of a</p> <p>12 story that appeared on the abcnews.com Web site.</p> <p>13 Q. Is it legible?</p> <p>14 A. Barely.</p> <p>15 Q. Well, I can give you mine if you want.</p> <p>16 I got that one --</p> <p>17 A. It would be easier, if you could.</p> <p>18 Q. I got that one from your lawyer's</p> <p>19 notebook.</p> <p>20 MR. BABCOCK: Apparently our copiers</p> <p>21 aren't so good.</p> <p>22 THE WITNESS: Thank you. This is much</p> <p>23 better.</p> <p>24 MR. KAITCER: He was trying to do me a</p> <p>25 favor, so I shouldn't fuss at it.</p>

<p style="text-align: right;">Page 77</p> <p>1 Brian Ross</p> <p>2 Q. In any event, you've got Exhibit No. 23</p> <p>3 there in front of you; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Who --</p> <p>6 What is this?</p> <p>7 Basically what is it?</p> <p>8 It's a printout of --</p> <p>9 A. A printout of a story that appeared on</p> <p>10 the ABC News Web site, abcnews.com.</p> <p>11 Q. Why do you all post stories on the</p> <p>12 Web site?</p> <p>13 A. We have in recent years established an</p> <p>14 ABC News Web site and we treat it like any of our</p> <p>15 news programs. If there are stories of interest,</p> <p>16 we put them there.</p> <p>17 Q. And you want people to look at them,</p> <p>18 right?</p> <p>19 A. Yes, we do.</p> <p>20 Q. In fact, do you refer to stories being</p> <p>21 on your Web site on the broadcast itself?</p> <p>22 A. Sometimes.</p> <p>23 Q. Do you know how many hits your Web site</p> <p>24 gets in any particular time period?</p> <p>25 A. I do not.</p>	<p style="text-align: right;">Page 79</p> <p>1 Brian Ross</p> <p>2 second one from the top, that says, "The FBI said</p> <p>3 it was unaware of allegations against the Muslim</p> <p>4 agent when he was sent to Saudi Arabia or of two</p> <p>5 similar incidents described to ABC News by agents</p> <p>6 in New York and Tampa, Florida."</p> <p>7 A. Right.</p> <p>8 Q. "They said that Abdel-Hafiz contributed</p> <p>9 significantly to many successful terror</p> <p>10 investigations."</p> <p>11 A. Yes.</p> <p>12 Q. Were similar incidents described to you</p> <p>13 personally by agents in New York and Tampa?</p> <p>14 A. In New York, yes.</p> <p>15 Q. Okay. And this was done to you</p> <p>16 personally; is that right?</p> <p>17 A. To me personally, yes.</p> <p>18 Q. Who described these?</p> <p>19 A. Former Special Agent Jack Cloonan, who</p> <p>20 was a senior agent on the bin Laden squad in</p> <p>21 Manhattan.</p> <p>22 Q. Jack Cloonan?</p> <p>23 A. Cloonan.</p> <p>24 Q. And how did you come in contact with</p> <p>25 him?</p>
<p style="text-align: right;">Page 78</p> <p>1 Brian Ross</p> <p>2 Q. Someone keeps statistics on that?</p> <p>3 I'll bet they do.</p> <p>4 A. I assume, but I don't really know.</p> <p>5 It's not something that comes across my desk.</p> <p>6 Q. Typically do you know how many people</p> <p>7 watch Primetime?</p> <p>8 A. I don't really know. The numbers have</p> <p>9 varied over the years.</p> <p>10 Q. Can you give me a range of how they</p> <p>11 vary?</p> <p>12 A. Somebody would know better than I</p> <p>13 would. I don't really -- I don't really see the</p> <p>14 ratings, other than when they show up in the</p> <p>15 newspapers, for the most part.</p> <p>16 Q. You're not interested in your own</p> <p>17 ratings?</p> <p>18 A. To be honest, you know, I can't do</p> <p>19 anything about the ratings, so I'm just -- I'm</p> <p>20 interested in the quality of the story. I'm</p> <p>21 interested in the reaction of the story. But the</p> <p>22 ratings, the numbers, as they call them, I can't</p> <p>23 control that.</p> <p>24 Q. All right. If you will turn to page 3</p> <p>25 of the story there's a paragraph, I think it's the</p>	<p style="text-align: right;">Page 80</p> <p>1 Brian Ross</p> <p>2 A. Mr. Cloonan works for ABC News now as a</p> <p>3 consultant on matters of bin Laden and Al Qaeda</p> <p>4 and terror.</p> <p>5 Q. Okay. And did former Agent Cloonan</p> <p>6 know Special Agent Abdel-Hafiz?</p> <p>7 A. Yes, he did.</p> <p>8 Q. How did he know him?</p> <p>9 A. I believe he had worked with him.</p> <p>10 Q. In what office?</p> <p>11 A. I'm not sure what office, but as part</p> <p>12 of Mr. Cloonan's assignment he traveled to a</p> <p>13 variety of offices. The agents travel around the</p> <p>14 country. He was on the bin Laden squad. I think</p> <p>15 that he knew Agent Hafiz when he was a translator,</p> <p>16 before he became a special agent.</p> <p>17 Q. Okay. Is that how he became -- well,</p> <p>18 you just told me that it was. I'm trying to find</p> <p>19 out more details about Mr. Cloonan's knowledge of</p> <p>20 Special Agent Abdel-Hafiz.</p> <p>21 Did he say he had worked with him when</p> <p>22 he was a translator or that he just knew him?</p> <p>23 A. He told me he knew him as a translator.</p> <p>24 I don't recall when he became an agent or when</p> <p>25 Mr. Cloonan worked with him. He said in general</p>

<p style="text-align: right;">Page 81</p> <p>1 Brian Ross</p> <p>2 that he was held in well regard by the bin Laden</p> <p>3 squad.</p> <p>4 Q. Okay. Was he -- was Mr. Cloonan</p> <p>5 involved in the investigation of the first</p> <p>6 World Trade Center bombing, or do you know?</p> <p>7 A. He joined the bin Laden squad in '95.</p> <p>8 There really wasn't one until '95, I think. I</p> <p>9 could be wrong about that. That's when they fired</p> <p>10 up a special operation to go after bin Laden.</p> <p>11 Q. Okay.</p> <p>12 A. He may have been -- I imagine -- he had</p> <p>13 worked in Manhattan then. Many agents were</p> <p>14 involved in that.</p> <p>15 I don't know the answer to the question</p> <p>16 I guess is the short way of saying it.</p> <p>17 Q. How many occasions did you talk to --</p> <p>18 When did Mr. Cloonan leave the FBI?</p> <p>19 A. Sometime after September 11th, perhaps</p> <p>20 a year after, six months after. I don't know the</p> <p>21 exact time.</p> <p>22 Q. Do you know if Agent Cloonan had any</p> <p>23 connection with Agents Wright or Vincent?</p> <p>24 A. None that I know of, did not know them.</p> <p>25 Q. All right. How was it that it came</p>	<p style="text-align: right;">Page 83</p> <p>1 Brian Ross</p> <p>2 A. I don't recall what they were.</p> <p>3 Q. Or what the substance of his statements</p> <p>4 were?</p> <p>5 A. It was a similar vein. When they were</p> <p>6 trying to conduct an investigation they had</p> <p>7 problems with Agent Hafiz.</p> <p>8 Q. Did he go into detail what the problems</p> <p>9 were?</p> <p>10 A. That he was refusing to carry out</p> <p>11 certain parts of the investigation.</p> <p>12 Q. Did he tell you what parts of the</p> <p>13 investigation he was --</p> <p>14 A. He did not.</p> <p>15 Q. -- refusing to carry out?</p> <p>16 A. He did not.</p> <p>17 Q. Did he tell you whether or not it had</p> <p>18 anything to do with conducting covert recordings?</p> <p>19 A. I think he did, but I'm imprecise in my</p> <p>20 memory of that. But I believe he did, yes.</p> <p>21 Q. Anything else he told you?</p> <p>22 A. Not that I can recall.</p> <p>23 Q. Now, you mentioned that you asked him</p> <p>24 about allegations of dereliction of duty in</p> <p>25 Saudi Arabia.</p>
<p style="text-align: right;">Page 82</p> <p>1 Brian Ross</p> <p>2 about that you talked to Jack Cloonan?</p> <p>3 A. Because I asked him about Agent Hafiz</p> <p>4 in connection initially with the allegations</p> <p>5 that -- you know, dereliction of duty in</p> <p>6 Saudi Arabia.</p> <p>7 Q. What did he tell you about the</p> <p>8 allegations of dereliction of duty in</p> <p>9 Saudi Arabia?</p> <p>10 A. He didn't know about that, but then</p> <p>11 related to me what he said was an incident similar</p> <p>12 to what Wright and Vincent were describing.</p> <p>13 Q. Okay.</p> <p>14 A. He said they had problems with him.</p> <p>15 Q. When did those problems allegedly take</p> <p>16 place?</p> <p>17 A. He didn't want to go into details.</p> <p>18 There was a case and I didn't press</p> <p>19 him, because I didn't want to put that on the air.</p> <p>20 For me it served as a further confirmation with</p> <p>21 Agent Carmody, Agent Cloonan that what Bob Wright</p> <p>22 and Mark Flessner and John Vincent were talking</p> <p>23 about had some bearing.</p> <p>24 Q. He didn't go into any details about</p> <p>25 when it was?</p>	<p style="text-align: right;">Page 84</p> <p>1 Brian Ross</p> <p>2 A. That's how it was seen by many inside</p> <p>3 the FBI that I talked to.</p> <p>4 Q. You talked to many people inside the</p> <p>5 FBI about this?</p> <p>6 A. Well, even the people on the conference</p> <p>7 call, it was essentially the -- that was</p> <p>8 Prouty's -- that was the main thing he addressed</p> <p>9 during this background conference call, was this</p> <p>10 allegation that he had done a bad job, had ignored</p> <p>11 leads. That was the principal point they wanted</p> <p>12 to address in that background conference call.</p> <p>13 Q. And did Mr. Prouty advise you that that</p> <p>14 was not correct?</p> <p>15 A. He was looking into it. He said there</p> <p>16 were problems with the computers. He said that</p> <p>17 they were understaffed. That because the Saudi</p> <p>18 office had such a large coverage area this was</p> <p>19 understandable. And that the investigation was</p> <p>20 still ongoing into what happened into these leads.</p> <p>21 And that not all leads had equal merit or</p> <p>22 importance.</p> <p>23 Q. Did --</p> <p>24 A. And then there was some dispute about</p> <p>25 the number, whether it was 1300 unpursued leads or</p>

<p style="text-align: right;">Page 85</p> <p>1 Brian Ross</p> <p>2 800, if I recall his numbers.</p> <p>3 Q. What is a lead, as far as you know?</p> <p>4 What do we mean by a lead?</p> <p>5 A. As far as I know, it's -- and this is</p> <p>6 just layman's terms, it's an inquiry from FBI</p> <p>7 headquarters to the FBI agents assigned to the</p> <p>8 U.S. embassy in Saudi Arabia. Pursue this lead,</p> <p>9 information about so and so.</p> <p>10 And this was very important obviously</p> <p>11 since so many of the hijackers came from</p> <p>12 Saudi Arabia.</p> <p>13 Q. I understand that it's important to</p> <p>14 pursue these.</p> <p>15 But most leads, in fact, don't lead to</p> <p>16 information that's relevant; isn't that right?</p> <p>17 A. I don't know that.</p> <p>18 Q. Okay. And what was Special Agent</p> <p>19 Prouty's full title, if you know?</p> <p>20 A. Charles Prouty?</p> <p>21 I don't recall a title.</p> <p>22 Q. Did anyone on that -- this is the</p> <p>23 45-minute telephone conversation we're talking</p> <p>24 about, right?</p> <p>25 A. Right. And that was the primary</p>	<p style="text-align: right;">Page 87</p> <p>1 Brian Ross</p> <p>2 A. Yes.</p> <p>3 Q. Did anyone accuse Special Agent</p> <p>4 Abdel-Hafiz of dereliction of duty or are those</p> <p>5 your words?</p> <p>6 A. Agent Carmody said he was guilty of</p> <p>7 insubordination.</p> <p>8 Q. Well, my -- maybe you didn't understand</p> <p>9 my question.</p> <p>10 My question was, did anyone accuse</p> <p>11 Special Agent Abdel-Hafiz of dereliction of duty</p> <p>12 while he was assigned to Saudi Arabia?</p> <p>13 A. Yes, the sources I talked to initially</p> <p>14 said that.</p> <p>15 Q. And they used those words?</p> <p>16 A. Those, perhaps, are my words. That's</p> <p>17 how I took the information I had, that he failed</p> <p>18 miserably in his job and had left this huge number</p> <p>19 of leads unpursued. And they saw it as</p> <p>20 dereliction of duty.</p> <p>21 Q. Well, did they use the words</p> <p>22 dereliction of duty or are those your words?</p> <p>23 A. I don't recall the conversation, it was</p> <p>24 sometime ago. But I would say that's the essence</p> <p>25 of what they said.</p>
<p style="text-align: right;">Page 86</p> <p>1 Brian Ross</p> <p>2 conversation during that, that was the issue they</p> <p>3 seemed to be most concerned about in the</p> <p>4 conversation.</p> <p>5 Q. Allegations of dereliction of duty?</p> <p>6 A. Right.</p> <p>7 Q. Who told you there had been allegations</p> <p>8 of dereliction of duty in Saudi Arabia by Special</p> <p>9 Agent Abdel-Hafiz?</p> <p>10 A. Well, it was not just Hafiz, it was his</p> <p>11 colleague there as well. It was seen as an office</p> <p>12 problem, that both of the agents there had --</p> <p>13 Q. My question was who told you.</p> <p>14 A. Who told me that there were problems</p> <p>15 there?</p> <p>16 Q. Yes.</p> <p>17 A. Well, certainly Prouty did. He was</p> <p>18 trying to explain the problems. But there was a</p> <p>19 confirmation there were problems.</p> <p>20 Q. Who initially told you there were</p> <p>21 problems?</p> <p>22 A. As I said, these were sources that are</p> <p>23 confidential.</p> <p>24 Q. And you're refusing to give me the name</p> <p>25 of those sources?</p>	<p style="text-align: right;">Page 88</p> <p>1 Brian Ross</p> <p>2 Q. All right. Then you mentioned --</p> <p>3 Well, did anyone from the FBI in</p> <p>4 authority with whom you dealt, such as Mike Kortan</p> <p>5 or Mr. Prouty, Agent Prouty, did they accuse</p> <p>6 Special Agent Abdel-Hafiz of dereliction of duty?</p> <p>7 MR. BABCOCK: Object to the form of the</p> <p>8 question.</p> <p>9 Q. You can answer it.</p> <p>10 A. Anyone of authority?</p> <p>11 Q. Yes.</p> <p>12 A. Those two men did not.</p> <p>13 Q. Or anyone that you talked to in</p> <p>14 positions of authority in connection with your</p> <p>15 investigation.</p> <p>16 A. Well, as I said, Agent Carmody said he</p> <p>17 was -- he felt he was guilty of insubordination --</p> <p>18 Q. Well, insubordination is one thing,</p> <p>19 dereliction of duty is something else.</p> <p>20 A. Well, I don't know the legal</p> <p>21 difference. But for me failure to carry out your</p> <p>22 job would be in the category of dereliction of</p> <p>23 duty.</p> <p>24 Q. Okay. Well, let's talk about</p> <p>25 Barry Carmody.</p>

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<p>1 Brian Ross</p> <p>2 Who is Barry Carmody?</p> <p>3 A. A former special agent of the FBI in</p> <p>4 Tampa.</p> <p>5 Q. And when did he cease being in the FBI,</p> <p>6 if you know?</p> <p>7 A. I do not know.</p> <p>8 Q. What was his connection with Special</p> <p>9 Agent Abdel-Hafiz?</p> <p>10 A. He told us that he had been involved in</p> <p>11 a case where Agent Hafiz also refused to record a</p> <p>12 suspect in a terror investigation because he said</p> <p>13 Muslims don't record Muslims.</p> <p>14 Q. Okay. Who was he supposed to record,</p> <p>15 do you know?</p> <p>16 A. I believe it was in connection with the</p> <p>17 investigation of Sami Al-Arian.</p> <p>18 Q. Do you know whether or not Special</p> <p>19 Agent Abdel-Hafiz ultimately agreed and attempted</p> <p>20 to make such a covert recording?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. And what is your knowledge based on?</p> <p>23 A. On what Mr. Carmody told us.</p> <p>24 Q. Okay. Other than Mr. Carmody, did</p> <p>25 anyone from the FBI ever tell you that Special</p>	<p>1 Brian Ross</p> <p>2 We can go off the record, as far as I'm</p> <p>3 concerned.</p> <p>4 THE VIDEOGRAPHER: Going off the</p> <p>5 record, end of tape 1, at 12:04.</p> <p>6 (Luncheon recess: 12:04 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</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>
Page 90	Page 92
<p>1 Brian Ross</p> <p>2 Agent Hafiz had been reluctant or had refused to</p> <p>3 conduct this covert recording?</p> <p>4 A. Any covert recording?</p> <p>5 Q. This particular one in Florida.</p> <p>6 A. No.</p> <p>7 Q. This is a Florida --</p> <p>8 A. The Florida case, no.</p> <p>9 Q. -- case, right?</p> <p>10 A. Our information there came from</p> <p>11 Carmody.</p> <p>12 Q. So if there's other information out</p> <p>13 there about Special Agent Abdel-Hafiz and this</p> <p>14 particular event in Florida you wouldn't be</p> <p>15 familiar with it because you only talked to</p> <p>16 Carmody?</p> <p>17 A. We talked to him and we have his sworn</p> <p>18 statement, a statement under oath that that was</p> <p>19 the case.</p> <p>20 MR. KAITCER: We've been at it for a</p> <p>21 couple of hours. Do you want to take a break</p> <p>22 for lunch?</p> <p>23 MR. BABCOCK: Yeah. Just so I can let</p> <p>24 Walter know, he's standing by.</p> <p>25 What's your plan?</p>	<p>1 Brian Ross</p> <p>2 AFTERNOON SESSION</p> <p>3 (Time noted: 1:17 p.m.)</p> <p>4 BRIAN ROSS, resumed as a witness,</p> <p>5 having been previously sworn by the</p> <p>6 Notary Public, was examined and testified as</p> <p>7 follows:</p> <p>8 THE VIDEOGRAPHER: Back on the record,</p> <p>9 1:17. This is the beginning of tape 2.</p> <p>10 EXAMINATION BY</p> <p>11 MR. KAITCER:</p> <p>12 Q. Okay. Mr. Ross, we're back on the</p> <p>13 record after our lunch break. I have a number of</p> <p>14 other questions for you.</p> <p>15 You -- before we broke you mentioned</p> <p>16 your discussions with Jack Cloonan, who is now an</p> <p>17 ABC employee; is that right?</p> <p>18 A. He is a consultant for ABC News.</p> <p>19 Q. He's a consultant, which means what,</p> <p>20 ABC pays him money to come on TV or what?</p> <p>21 A. We pay him, I don't know, an amount to</p> <p>22 be available to us to be interviewed and help</p> <p>23 consult us on stories that regard terrorism and</p> <p>24 the FBI.</p> <p>25 Q. So it's not just on a one-shot basis</p>

<p style="text-align: right;">Page 93</p> <p>1 Brian Ross</p> <p>2 that he does this, he's a retained -- basically, I</p> <p>3 guess, a permanent type consultant for you?</p> <p>4 A. He's a consultant, yes.</p> <p>5 Q. Did Mr. Cloonan tell you that Gamal had</p> <p>6 refused to record another Muslim?</p> <p>7 A. He said there had been problems in the</p> <p>8 case, similar to the ones I described to him in</p> <p>9 the Chicago case.</p> <p>10 Q. My question to you is, did Mr. Cloonan</p> <p>11 tell you that Gamal had refused to record another</p> <p>12 Muslim?</p> <p>13 A. Well, I'm trying to tell you exactly,</p> <p>14 as best I know that's what he said. There had</p> <p>15 been problems in a case involving a recording.</p> <p>16 Q. When did he make that statement to you?</p> <p>17 A. Sometime prior to the broadcast.</p> <p>18 Q. Do you know, was this on a case that</p> <p>19 Mr. Cloonan was handling or was this just</p> <p>20 something he'd heard in the bureau?</p> <p>21 A. Something he was aware of. I don't</p> <p>22 know if he was handling the case, though.</p> <p>23 Q. Okay. Do you know -- are you aware of</p> <p>24 Special Agent Wright going on TV prior to</p> <p>25 Primetime and conducting a news conference for</p>	<p style="text-align: right;">Page 95</p> <p>1 Brian Ross</p> <p>2 Q. Who did talk to Barry Carmody?</p> <p>3 A. Vic Walter.</p> <p>4 Q. Did the statement --</p> <p>5 The articles that were published, did</p> <p>6 they make the statement that an FBI agent named</p> <p>7 Gamal Abdel-Hafiz seriously damaged the</p> <p>8 investigation?</p> <p>9 A. Which articles?</p> <p>10 Q. On the ABC Web site, do you recall that</p> <p>11 statement being made?</p> <p>12 A. I recall saying it in the broadcast,</p> <p>13 but I don't know. I'd have to take a look at the</p> <p>14 Web site to be sure.</p> <p>15 Q. But you recall making that statement in</p> <p>16 the broadcast?</p> <p>17 A. That we were told, based on what</p> <p>18 Mark Flessner and Bob Wright had told us, that it</p> <p>19 seriously damaged the investigation.</p> <p>20 Q. Okay. Do you know how it seriously</p> <p>21 damaged the investigation?</p> <p>22 A. According to Flessner, they felt that</p> <p>23 the recording would have been a key. It was a big</p> <p>24 break and it was a key to the investigation and</p> <p>25 Hafiz's refusal to do so essentially shut down</p>
<p style="text-align: right;">Page 94</p> <p>1 Brian Ross</p> <p>2 C-Span taped months earlier?</p> <p>3 A. Yes.</p> <p>4 Q. Could it have been that Mr. Cloonan</p> <p>5 was referring to the issue in Chicago between</p> <p>6 Agent Wright and Agent Abdel-Hafiz?</p> <p>7 A. I don't think so, no.</p> <p>8 Q. But you don't know that?</p> <p>9 A. I don't think that's the case. He</p> <p>10 didn't say I heard about the Chicago case. He</p> <p>11 told me -- he said there was another case he knew</p> <p>12 about and the same thing that happened. It wasn't</p> <p>13 the Chicago case.</p> <p>14 Q. Do you know if it was the Tampa case?</p> <p>15 A. I don't know that, but I believe it was</p> <p>16 a New York based case.</p> <p>17 Q. But you don't know that either, do you?</p> <p>18 A. I believe it was a New York case.</p> <p>19 Q. Did he tell you it was a New York based</p> <p>20 case?</p> <p>21 A. It was a case worked out of New York,</p> <p>22 yes.</p> <p>23 Q. And did you personally talk to</p> <p>24 Barry Carmody?</p> <p>25 A. I did not.</p>	<p style="text-align: right;">Page 96</p> <p>1 Brian Ross</p> <p>2 that important lead.</p> <p>3 Q. Did John Vincent make that statement to</p> <p>4 you, too, that the refusal seriously damaged the</p> <p>5 investigation?</p> <p>6 A. Words to that effect.</p> <p>7 Q. Okay. Now, you know that you're not</p> <p>8 the only show that --</p> <p>9 You're sure that Vincent said words to</p> <p>10 the effect, that that seriously damaged the</p> <p>11 investigation?</p> <p>12 A. In my conversations with him or during</p> <p>13 the taped interview, yes. He was outraged by the</p> <p>14 action of the agent.</p> <p>15 Q. You know Mr. Vincent told one of your</p> <p>16 competitors, Bill O'Reilly --</p> <p>17 I assume you're familiar with</p> <p>18 Mr. O'Reilly; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. -- he told Mr. O'Reilly that he really</p> <p>21 didn't know how important the guy was that Gamal</p> <p>22 had been requested to record, are you aware of</p> <p>23 that?</p> <p>24 A. No.</p> <p>25 Q. Were you told by your producer,</p>

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1 Brian Ross
2 Vic Walter, that he had spoken with Danny
3 Defenbaugh?
4 A. Yes.
5 Q. Did he tell you that -- did Mr. Walter
6 tell you that it was Mr. Defenbaugh's position
7 that it was his decision, meaning Danny
8 Defenbaugh's position, that Special Agent
9 Abdel-Hafiz not wear a wire?
10 A. No.
11 Q. If that had been said do you think that
12 was something that should have been included in
13 the program?
14 MR. BABCOCK: Object to the form.
15 A. It would depend on how it was said, how
16 he backed it up, whether it was true. I don't
17 think it was true, so...
18 Q. You don't think it was true?
19 A. I know it wasn't true.
20 Q. You know what wasn't true?
21 A. That it was not the decision of
22 Mr. Defenbaugh.
23 Q. Well, you had a press release from the
24 FBI saying that it was the executives in the
25 Dallas office who made the decision, right?

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1 Brian Ross
2 MR. BABCOCK: Object to the form.
3 A. I did not.
4 You misstated what this says, it says
5 the decision was made by Agent Hafiz.
6 Q. It says Agent Hafiz recommended against
7 it and suggested an alternate plan, does it not?
8 A. Can I see that?
9 Q. Of course.
10 (Witness looks at document.)
11 A. "The Dallas Special Agent in Charge and
12 other supervisors concurred with Hafiz's request
13 not to conduct the consensual monitoring." It
14 says that he proposed an alternative plan to meet
15 at a mosque, but that turned out not to be true.
16 Q. What is the sentence that --
17 A. The statement is -- sorry.
18 Q. It says, "Ultimately, the decision was
19 made by management of the Dallas office and
20 Chicago agreed to abide by that decision."
21 A. You keep reading it without the
22 sentence that goes ahead of that.
23 Q. Do you think that that statement is
24 incorrect?
25 A. I do. I think it's wildly incorrect.

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1 Brian Ross
2 Q. Who do you think made the decision?
3 A. I think Agent Hafiz made the decision
4 not to wear the wire.
5 Q. Assume with me, though, that -- well, I
6 think I already asked you this question. I think
7 I asked you the question about if Danny Defenbaugh
8 said it was my decision that he not wear the wire.
9 You indicated that you didn't know if
10 that would be included in the broadcast or not.
11 A. Well, it would depend. Was he involved
12 in the meeting?
13 In this case we know he wasn't.
14 Did he provide details that were
15 accurate?
16 In this case we know he did not.
17 I can't assume what you say, because it
18 doesn't make sense based on the facts I know in
19 this case.
20 Q. Well, you don't know what his
21 involvement was in the overall process, though, do
22 you?
23 A. I think it was a very minimal
24 involvement. I do know from the people who were
25 involved, Mark Flessner and the other agents, the

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1 Brian Ross
2 other assistants there, he was not involved in the
3 case, in the decision. He concurred in the end,
4 but he was not involved in making the decision.
5 Q. But ultimately as the agent in charge
6 it's his decision, is it not?
7 A. He may have concurred with it and
8 approved of it, but I don't believe he made the
9 decision.
10 Q. Okay. Now, of course you weren't there
11 in person when the decision was made, were you?
12 A. I was not.
13 Q. So you simply have to rely --
14 And these events that took place, took
15 place that were accounted to you, took place when?
16 A. What year?
17 Q. Yes.
18 A. 1998, '99.
19 Q. Okay. So you were relying upon
20 individuals recollections from what took place two
21 and a half to three years prior; is that correct?
22 A. Yes.
23 Memorialized in some of their
24 documents, their accounts, and their sworn
25 affidavits, I did rely on that.

<p style="text-align: right;">Page 101</p> <p>1 Brian Ross</p> <p>2 Q. Well, the affidavits, were those</p> <p>3 affidavits done contemporaneously or do you know?</p> <p>4 A. I don't know.</p> <p>5 Q. Did you ask Mr. Kortan, Agent Kortan,</p> <p>6 when you had your telephone conversation with him</p> <p>7 if you could interview Special Agent Abdel-Hafiz?</p> <p>8 A. He told us -- we said we are trying to</p> <p>9 reach him. He told us they'd be issuing a</p> <p>10 statement that would speak for him and for the</p> <p>11 FBI.</p> <p>12 Q. Indicating to you they didn't want you</p> <p>13 to talk to him; is that right?</p> <p>14 A. I don't think that indicated that. It</p> <p>15 just indicated that they would be issuing a</p> <p>16 statement.</p> <p>17 Q. They would be speaking for him?</p> <p>18 A. For him and for the FBI.</p> <p>19 Q. Did you ever receive any information</p> <p>20 that -- with respect to the Tampa investigation</p> <p>21 that your producer talked to Special Agent Carmody</p> <p>22 on, that ultimately Special Agent Abdel-Hafiz</p> <p>23 agreed to conduct covert recordings?</p> <p>24 A. No.</p> <p>25 Q. Would that be an important fact for you</p>	<p style="text-align: right;">Page 103</p> <p>1 Brian Ross</p> <p>2 termination from the FBI; is that correct?</p> <p>3 A. Subsequent to what?</p> <p>4 Q. Subsequent to the broadcast.</p> <p>5 A. After the broadcast?</p> <p>6 Q. Yes.</p> <p>7 A. Prior to the broadcast we had been told</p> <p>8 during the conference call that he was under</p> <p>9 investigation for an issue that they would not</p> <p>10 relate. They said it was not connected to the</p> <p>11 backlog of cases in Saudi Arabia, that's all they</p> <p>12 would say to us.</p> <p>13 Q. Did you personally make any inquiry</p> <p>14 subsequent to the broadcast about Special Agent</p> <p>15 Abdel-Hafiz's employment situation?</p> <p>16 A. After the broadcast?</p> <p>17 Q. Yes.</p> <p>18 A. We learned at some point, a few months</p> <p>19 later, that he had been essentially recalled from</p> <p>20 Saudi Arabia.</p> <p>21 Q. Did you, yourself, learn that</p> <p>22 personally or was that someone relating it to you?</p> <p>23 A. I can't recall how I learned that. I</p> <p>24 think it was -- I think Mr. Walter may have told</p> <p>25 me that.</p>
<p style="text-align: right;">Page 102</p> <p>1 Brian Ross</p> <p>2 to have known in this story?</p> <p>3 A. Whether he did?</p> <p>4 Q. Yes.</p> <p>5 A. I would like to know all facts, if I</p> <p>6 could.</p> <p>7 Q. Is that an important fact that you</p> <p>8 would have liked to have known?</p> <p>9 A. If it's true, I'd like to know all</p> <p>10 facts. There's no fact I'm afraid of.</p> <p>11 Q. In the program I think you said that</p> <p>12 "Suspensions increased when the Muslim agent left</p> <p>13 his office and went to Mecca for pilgrimage."</p> <p>14 Do you remember making that statement?</p> <p>15 A. No.</p> <p>16 Q. Okay. It may even be on the Web site,</p> <p>17 let's see.</p> <p>18 So your recollection is that you never</p> <p>19 made the statement, "Suspensions increased when the</p> <p>20 Muslim agent left his office and went to Mecca for</p> <p>21 pilgrimage"; is that correct?</p> <p>22 A. Not in that broadcast.</p> <p>23 Q. Okay. Subsequently you became aware</p> <p>24 that Special Agent Abdel-Hafiz had been -- that</p> <p>25 proceedings were instituted to discuss his</p>	<p style="text-align: right;">Page 104</p> <p>1 Brian Ross</p> <p>2 Q. Okay. You, yourself, have no</p> <p>3 independent recollection of making that inquiry?</p> <p>4 A. Making that inquiry, no, I did not.</p> <p>5 Q. Okay. Do you have any independent</p> <p>6 recollections right now of any other inquiries or</p> <p>7 investigations that you conducted after the</p> <p>8 broadcast with regard to this case and the facts</p> <p>9 alleged in this case?</p> <p>10 A. And by "the facts in this case," we did</p> <p>11 subsequent stories on Mohammed Salah and the FBI</p> <p>12 investigation that had been stalled, we did that</p> <p>13 story.</p> <p>14 Q. Okay. Well, I guess more specifically</p> <p>15 I'm talking about this -- Special Agent</p> <p>16 Abdel-Hafiz's involvement in this situation.</p> <p>17 A. In which situation?</p> <p>18 Q. In the investigations you were</p> <p>19 conducting.</p> <p>20 A. You're -- I don't quite follow you.</p> <p>21 In the investigations of terrorism by</p> <p>22 the Chicago office?</p> <p>23 Q. No. I'm talking -- well, to the extent</p> <p>24 that he is involved, that Special Agent</p> <p>25 Abdel-Hafiz is involved, yes. But if you were</p>

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1 Brian Ross
 2 just conducting -- following up on information you
 3 learned from the Chicago office about an ongoing
 4 terror investigation, no. I'm asking for
 5 specifically regarding any involvement of Special
 6 Agent Abdel-Hafiz.
 7 A. I don't recall any specific inquiry
 8 that I made after the investigation, after our
 9 ABC News investigation.
 10 Q. Did anyone relate to you any further
 11 information about Special Agent Abdel-Hafiz's
 12 involvement in the investigations?
 13 A. I think Mr. Walter told me that a Texas
 14 newspaper had done a story that he was involved in
 15 some alleged fraud.
 16 Q. Okay. Anything else that you can
 17 recall?
 18 A. Then I heard there was another report
 19 that he had been fired for the -- an insurance
 20 fraud claim of some sort. I didn't know all the
 21 details, but that's what I recall hearing.
 22 Q. Who gave you that information?
 23 A. Mr. Walter told me.
 24 Q. And who gave you the information that
 25 Special Agent Abdel-Hafiz had been reinstated?

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1 Brian Ross
 2 A. I don't recall where I learned that.
 3 It was later, sometime later.
 4 Q. But well in advance of today?
 5 A. I don't -- at some point before today,
 6 yes.
 7 Q. Do --
 8 You were drawing a distinction when I
 9 first began asking you questions between a news
 10 magazine like Primetime and what you called hard
 11 news, which I guess is World News Tonight, right?
 12 A. Yes.
 13 Q. Are there differences in the
 14 journalistic standards?
 15 A. No.
 16 Q. Are you familiar with the journalistic
 17 standards?
 18 A. By the "journalistic standards" what do
 19 you mean?
 20 Q. Are you familiar with the journalistic
 21 standards that you operate under in conducting
 22 your work?
 23 A. I don't know that there's any published
 24 set of standards for the whole industry. ABC News
 25 has policies. Each news organization has its own

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1 Brian Ross
 2 policies.
 3 Q. Okay. And you're aware that -- I guess
 4 you're aware, maybe you're not. I would probably
 5 think you would be aware it would be important to
 6 give honest and truthful reporting.
 7 A. Yes.
 8 Q. And you're aware of the damage that
 9 misleading statements can cause?
 10 MR. BABCOCK: Object to the form.
 11 A. I don't know what you mean by that.
 12 Q. Well, you don't want to give misleading
 13 statements during your broadcast, do you?
 14 A. I do not.
 15 Q. Why?
 16 A. I want to be accurate. I have my
 17 reputation, my integrity, that I think is intact
 18 after a number of years, and I want to serve our
 19 viewers with honest information.
 20 Q. And besides being concerned about -- is
 21 your reputation or your integrity something that's
 22 important to you?
 23 A. Yes.
 24 Q. Why?
 25 A. Because it's something I value. It's

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1 Brian Ross
 2 one of the few things I have of value.
 3 Q. Okay. I'm not going to ask you how
 4 much they pay you.
 5 MR. BABCOCK: He's not a rich
 6 plaintiff's lawyer like you, Jeff, that's the
 7 point he's trying to make.
 8 MR. KAITCER: I'm not as rich as the
 9 defense lawyer on the other side of the table
 10 who made the statement, who went to Brown and
 11 Ivy League schools, but I won't get into that
 12 either.
 13 I guess we'll have to get rid of this
 14 part of the deposition. The jury will
 15 dislike both of us.
 16 Q. In any event, your integrity and your
 17 reputation are very important to you?
 18 A. Yes, they are.
 19 Q. And wouldn't you also imagine that
 20 Mr. Abdel-Hafiz's reputation and integrity are
 21 very important to him, too?
 22 A. I imagine they are.
 23 Q. And if statements --
 24 Not only is it important for your own
 25 sense of personal integrity and character for you

<p style="text-align: right;">Page 109</p> <p>1 Brian Ross</p> <p>2 to provide accurate reporting, it's also important</p> <p>3 for the people who are depicted or referenced in</p> <p>4 your reporting, isn't that true?</p> <p>5 A. You have to restate that question.</p> <p>6 Q. Okay. You told me that your reputation</p> <p>7 is important to you.</p> <p>8 A. Yes.</p> <p>9 Q. And it's important for you to get</p> <p>10 things correct, because you don't want to have</p> <p>11 your reputation damaged, right?</p> <p>12 A. Well, there are lots of reasons to get</p> <p>13 things correct.</p> <p>14 Q. What are the reasons to get things</p> <p>15 correct then?</p> <p>16 A. First of all, we serve our viewers.</p> <p>17 Integrity and the accuracy of ABC News is</p> <p>18 important to me, it's important that our viewers</p> <p>19 trust us. I believe they do. We do our best to</p> <p>20 find out the facts and report them.</p> <p>21 Q. What are the other reasons?</p> <p>22 A. My own reputation, the reputation of</p> <p>23 the people I work with.</p> <p>24 But essentially the key reason is as a</p> <p>25 journalist I feel it's my obligation to tell the</p>	<p style="text-align: right;">Page 111</p> <p>1 Brian Ross</p> <p>2 writer.</p> <p>3 Q. You --</p> <p>4 A. It's my story, produced by Vic Walter,</p> <p>5 but...</p> <p>6 Q. But you're sort of the editor, I</p> <p>7 suppose.</p> <p>8 A. Well, I have editors --</p> <p>9 Q. Right.</p> <p>10 A. -- but I am the reporter.</p> <p>11 Q. But you get --</p> <p>12 It's largely you who puts -- I guess</p> <p>13 for lack of a better word, I'll borrow one of your</p> <p>14 competitor's words -- spin on the story, right?</p> <p>15 A. I don't accept that phrase at all.</p> <p>16 There's nothing about what I do that is spin.</p> <p>17 Q. You think that what you do is simply</p> <p>18 cold, hard reporting of facts?</p> <p>19 A. As straightforward as I can be.</p> <p>20 Q. Okay. Did you ever attempt to get in</p> <p>21 touch with Special Agent Timothy Gossfeld?</p> <p>22 A. I don't know who that is.</p> <p>23 Q. Okay. In your responses to the request</p> <p>24 for disclosure I believe there is a special agent</p> <p>25 or S.A. Lenoir, L-e-n-o-i-r, mentioned.</p>
<p style="text-align: right;">Page 110</p> <p>1 Brian Ross</p> <p>2 truth, as best I know it.</p> <p>3 Q. And with respect to the persons of whom</p> <p>4 you are reporting, who are the subjects of your</p> <p>5 reporting, do you think it's important to be</p> <p>6 accurate and truthful for their reputations as</p> <p>7 well?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And are you aware of the damage that</p> <p>10 misleading or inaccurate reporting can cause to an</p> <p>11 individual's reputation and character?</p> <p>12 A. I mean, it would depend on what was</p> <p>13 said, and what circumstances, the truthfulness of</p> <p>14 it.</p> <p>15 Truthful things can be hurtful, but</p> <p>16 they're truthful. That would matter most to me.</p> <p>17 Q. Right, if they were truthful.</p> <p>18 A. If they're truthful.</p> <p>19 Q. Okay. And I think we talked earlier --</p> <p>20 when I was asking you about the process for what</p> <p>21 goes into a program you indicated to me that -- I</p> <p>22 think you said, and I might have gotten this</p> <p>23 wrong, that that was kind of your decision to</p> <p>24 make; is that right?</p> <p>25 A. Initially I as the reporter and the</p>	<p style="text-align: right;">Page 112</p> <p>1 Brian Ross</p> <p>2 Do you know who that is?</p> <p>3 A. I've seen the name in one of the Wright</p> <p>4 affidavits.</p> <p>5 Q. Okay. And do you know personally who</p> <p>6 that is?</p> <p>7 A. I do not.</p> <p>8 Q. Has anyone on your staff ever come into</p> <p>9 contact with anyone named Special Agent Lenoir?</p> <p>10 A. Not that I know of.</p> <p>11 Q. I may not even be pronouncing it</p> <p>12 properly, it might be Lenoir. I don't know.</p> <p>13 A. I mean, there are a thousand people</p> <p>14 that work at ABC News, but no one has told me</p> <p>15 about it.</p> <p>16 Q. There may be a thousand people that</p> <p>17 work at ABC News, but one of them, in this case</p> <p>18 you, has indicated that Special Agent Lenoir has</p> <p>19 some knowledge of this case. And I'm just</p> <p>20 wondering what that is.</p> <p>21 A. He seems to be referenced in the</p> <p>22 affidavit.</p> <p>23 Q. Other than being referenced in</p> <p>24 Bob Wright's affidavit you have no knowledge of</p> <p>25 him?</p>

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<p>1 Brian Ross</p> <p>2 A. I do not.</p> <p>3 Q. Or her, it could be a her, I suppose;</p> <p>4 is that correct?</p> <p>5 A. That it could be a her?</p> <p>6 Q. You nodded, the court reporter can't</p> <p>7 pick that up.</p> <p>8 A. I'm just saying I suppose that's about</p> <p>9 a 50/50 chance.</p> <p>10 MR. BABCOCK: It sounds like a girly</p> <p>11 kind of name.</p> <p>12 MR. KAITCER: Thank you, Chip.</p> <p>13 Q. There is also referenced a Special</p> <p>14 Agent Walk, W-a-l-k, are you familiar with Special</p> <p>15 Agent Walk?</p> <p>16 A. I'm not.</p> <p>17 Q. Ever heard that name before?</p> <p>18 A. No.</p> <p>19 Q. Because that was also referenced in</p> <p>20 your discovery responses.</p> <p>21 And once again, I probably already</p> <p>22 asked you this, but you have reviewed your -- the</p> <p>23 tape of the program and the transcripts and it is</p> <p>24 your belief that you have never said that --</p> <p>25 during that program, the broadcast on, I guess,</p>	<p>1 Brian Ross</p> <p>2 glad to answer.</p> <p>3 MR. KAITCER: I will pass the witness</p> <p>4 at this time.</p> <p>5 MR. BABCOCK: I want to reserve my</p> <p>6 questions.</p> <p>7 Jeff, just to try to avoid future</p> <p>8 problems. On the confidential sources, I</p> <p>9 don't know if you want to pursue that, but he</p> <p>10 did not -- it turns out did not speak to them</p> <p>11 directly and doesn't know their identities.</p> <p>12 Is that right?</p> <p>13 THE WITNESS: That is correct.</p> <p>14 MR. BABCOCK: Okay. Whatever you want</p> <p>15 to do with that.</p> <p>16 MR. KAITCER: Who did speak with them,</p> <p>17 Vic Walter?</p> <p>18 MR. BABCOCK: No, I don't think so.</p> <p>19 THE WITNESS: Another colleague I work</p> <p>20 with, Chris Isham.</p> <p>21 MR. BABCOCK: The guy he mentioned</p> <p>22 before, they were really his sources.</p> <p>23 MR. KAITCER: So he didn't actually --</p> <p>24 MR. BABCOCK: Speak with them.</p> <p>25 MR. KAITCER: Mr. Ross's testimony is</p>
Page 114	Page 116
<p>1 Brian Ross</p> <p>2 December 9th -- 19th, 2002, you did not say</p> <p>3 "suspicions increased when the Muslim agent left</p> <p>4 his office and went to Mecca for a pilgrimage"?</p> <p>5 A. I don't believe it's in that broadcast.</p> <p>6 Q. Okay. Did you ever make that</p> <p>7 statement?</p> <p>8 A. I don't know, but I don't believe it's</p> <p>9 in that broadcast.</p> <p>10 Q. Okay.</p> <p>11 MR. KAITCER: Let's go off the record</p> <p>12 for just a second. I may be just about done.</p> <p>13 MR. BABCOCK: Sure.</p> <p>14 THE VIDEOGRAPHER: Off the record,</p> <p>15 1:46.</p> <p>16 (Recess taken.)</p> <p>17 THE VIDEOGRAPHER: Back on the record,</p> <p>18 1:56.</p> <p>19 BY MR. KAITCER:</p> <p>20 Q. Mr. Ross, have you understood all of my</p> <p>21 questions today?</p> <p>22 A. For the most part.</p> <p>23 Q. Is there anything in your testimony</p> <p>24 that you want to amend, clarify, enlarge upon?</p> <p>25 A. If you have any more questions, I'm</p>	<p>1 Brian Ross</p> <p>2 he didn't actually speak with them --</p> <p>3 THE WITNESS: That is correct.</p> <p>4 MR. KAITCER: -- is that his position?</p> <p>5 MR. BABCOCK: Yes.</p> <p>6 MR. KAITCER: That he knows who they</p> <p>7 are?</p> <p>8 MR. BABCOCK: No, he doesn't know who</p> <p>9 they are.</p> <p>10 MR. KAITCER: He doesn't know who they</p> <p>11 are, got it. He didn't speak with them, he</p> <p>12 doesn't know who they are, but they are</p> <p>13 confidential sources known to his producer,</p> <p>14 Chris -- or is it a writer?</p> <p>15 MR. BABCOCK: A colleague. Another</p> <p>16 reporter.</p> <p>17 MR. KAITCER: Colleague, Chris Isham.</p> <p>18 THE WITNESS: That's right.</p> <p>19 MR. KAITCER: How do you spell that?</p> <p>20 THE WITNESS: I-s-h-a-m.</p> <p>21 MR. KAITCER: And that is the</p> <p>22 individual who knows who they are?</p> <p>23 THE WITNESS: Yes.</p> <p>24 MR. BABCOCK: I just didn't want that</p> <p>25 to be confused on the record.</p>

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<p>1 Brian Ross</p> <p>2 But I don't have any questions.</p> <p>3 I would advise you to take that mike</p> <p>4 off and get out of here before somebody</p> <p>5 thinks of some more questions.</p> <p>6 THE VIDEOGRAPHER: Going off the</p> <p>7 record, end of the deposition, end of tape 2</p> <p>8 at 1:57.</p> <p>9 (Time noted: 1:57 p.m.)</p> <p>10</p> <p>11 BRIAN ROSS</p> <p>12 Subscribed and sworn to before me</p> <p>13 this ____ day of ____, 2006.</p> <p>14</p> <p>15 (Notary Public) My Commission Expires:</p> <p>16</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</p> <p>2 WITNESS: _____</p> <p>3 DATE(S): _____</p> <p>4 I wish to make the following changes, for the</p> <p>5 following reasons:</p> <p>6 PAGE LINE</p> <p>7 CHANGE FROM: _____</p> <p>8 CHANGE TO: _____</p> <p>9 REASON: _____</p> <p>10 CHANGE FROM: _____</p> <p>11 CHANGE TO: _____</p> <p>12 REASON: _____</p> <p>13 CHANGE FROM: _____</p> <p>14 CHANGE TO: _____</p> <p>15 REASON: _____</p> <p>16 CHANGE FROM: _____</p> <p>17 CHANGE TO: _____</p> <p>18 REASON: _____</p> <p>19 CHANGE FROM: _____</p> <p>20 CHANGE TO: _____</p> <p>21 REASON: _____</p> <p>22 CHANGE FROM: _____</p> <p>23 CHANGE TO: _____</p> <p>24 Subscribed and sworn to before me this ____ day</p> <p>25 of ____, 2006.</p>
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<p>1</p> <p>2</p> <p>3 * * *</p> <p>4 ACKNOWLEDGEMENT OF DEPONENT</p> <p>5 I, _____, do hereby</p> <p>6 acknowledge that I have read and examined the</p> <p>7 foregoing testimony, and the same is a true,</p> <p>8 correct and complete transcription of the</p> <p>9 testimony given by me, and any corrections appear</p> <p>10 on the attached Errata sheet signed by me.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 (DATE) (SIGNATURE)</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</p> <p>2 CERTIFICATE</p> <p>3 STATE OF NEW YORK)</p> <p>4 : ss.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6</p> <p>7 I, DONALD R. DePEW, a Registered</p> <p>8 Professional Reporter, Certified Realtime Reporter</p> <p>9 and Notary Public within and for the State of</p> <p>10 New York, do hereby certify:</p> <p>11 That BRIAN ROSS, the witness whose</p> <p>12 deposition is hereinbefore set forth, was duly</p> <p>13 sworn by me and that such deposition is a true</p> <p>14 record of the testimony given by the witness.</p> <p>15 I further certify that I am not related</p> <p>16 to any of the parties to this action by blood or</p> <p>17 marriage, and that I am in no way interested in</p> <p>18 the outcome of this matter.</p> <p>19 IN WITNESS WHEREOF, I have hereunto set</p> <p>20 my hand this 28th day of February, 2006.</p> <p>21</p> <p>22 DONALD R. DePEW, RPR, CRR</p> <p>23</p> <p>24</p> <p>25</p>

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8		
9	EXHIBITS	
10	NO DESCRIPTION ID	
11	42 39	
	One-page document entitled	
12	FBI Statement, dated	
	12/19/02	
13		
14	43 43	
	Two-page document, the	
	first page is a memo from	
15	Gamal Abdel-Hafiz to	
	Charles Goodwin, bearing	
16	Bates stamp Nos. ABCHAFIZ	
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19	Response to Plaintiff Gamal	
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20	Interrogatories	
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