

Michael David Resnick - 3/1/2006

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

2
3 GAMAL ABDEL-HAFIZ,)

4 Plaintiff,)

5 vs.) No. 06720339603

6 ABC, INCORPORATED, ET AL.,)

7 Defendants,) Pages 1 - 96

8 -----)

9 GAMAL ABDEL-HAFIZ,)

10 Plaintiff,)

11 vs.)

12 FOX, ET AL.,)

13 Defendants.)

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15 VIDEOTAPED DEPOSITION OF MICHAEL DAVID RESNICK

16 Washington, D.C.

17 March 1, 2006

18 The videotaped deposition of MICHAEL DAVID
19 RESNICK was convened on Wednesday, March 1,
20 2006, commencing at 10:10 a.m., at the offices
21 of Covington & Burling, 1201 Pennsylvania
22 Avenue, N.W., Washington, D.C. 20004, before
23 Paula G. Satkin, Registered Professional
24 Reporter and Notary Public.
25 Job No. 22-73107

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<p>IN THE 67TH DISTRICT COURT OF TARRANT COUNTY, TEXAS</p> <p>GAMAL ABDEL-HAFIZ,) Plaintiff,) vs.) No. 06720339603 ABC, INCORPORATED, ET AL.,) Defendants,) Pages 1 - 96 -----) GAMAL ABDEL-HAFIZ,) Plaintiff,) vs.) FOX, ET AL.,) Defendants.)</p> <p>VIDEOTAPED DEPOSITION OF MICHAEL DAVID RESNICK Washington, D.C. March 1, 2006</p> <p>The videotaped deposition of MICHAEL DAVID RESNICK was convened on Wednesday, March 1, 2006, commencing at 10:10 a.m., at the offices of Covington & Burling, 1201 Pennsylvania Avenue, N.W., Washington, D.C. 20004, before Paula G. Satkin, Registered Professional Reporter and Notary Public. Job No. 22-73107</p>	<p>1 ON BEHALF OF THE DEFENDANTS, ROBERT WRIGHT and 2 JOHN VINCENT: 3 PAUL J. ORFANEDES, ESQUIRE 4 JUDICIAL WATCH 5 501 School Street, S.W. 6 Suite 500 7 Washington, D.C. 20024 8 (202) 646-5172 9</p> <p>10 ON BEHALF OF THE WITNESS: 11 12 N. JOHN BENSON, JR., ESQUIRE 13 ASSISTANT GENERAL COUNSEL 14 FEDERAL BUREAU OF INVESTIGATION 15 OFFICE OF THE GENERAL COUNSEL 16 935 Pennsylvania Avenue, N.W. 17 Washington, D.C. 20535 18 (202) 220-9323 19</p> <p>20 ALSO PRESENT: 21 GAMAL ABDEL-HAFIZ, PLAINTIFF 22 CALI DAY, VIDEOGRAPHER 23 24 25</p>
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<p>1 APPEARANCES 2 3 ON BEHALF OF THE PLAINTIFF: 4 JEFFREY N. KAITCER, ESQUIRE 5 LOE WARREN ROSENFELD KAITCER & HIBBS, P.C. 6 4420 West Vickery Boulevard 7 Forth Worth, Texas 76185-0609 8 (817) 377-0060 9 10 11 ON BEHALF OF THE DEFENDANTS: 12 ROBERT P. LATHAM, ESQUIRE 13 JACKSON WALKER L.L.P. 14 901 Main Street 15 Suite 6000 16 Dallas, Texas 75202 17 (214) 953-6000 18 19 20 21 22 23 24 25</p>	<p>1 CONTENTS 2 EXAMINATION OF MICHAEL DAVID RESNICK PAGE 3 By Mr. Latham 6 4 By Mr. Kaitcer 57 5 By Mr. Latham 85 6 By Mr. Kaitcer 92 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p>1 PROCEEDINGS</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Here begins</p> <p>4 tape number one in the deposition of Michael</p> <p>5 Resnick in the matter of Gamal Abdel-Hafiz</p> <p>6 versus ABC, Incorporated, et al., and the</p> <p>7 related case Gamal Abdel-Hafiz versus Fox, et</p> <p>8 al., in the District Court of Tarrant County,</p> <p>9 Texas, Cause Number 06720339603.</p> <p>10 Today's date is March 1, 2006.</p> <p>11 The time is 10:10:08 a.m.</p> <p>12 The video operator today is Cali</p> <p>13 Day of Legal-Link Dallas.</p> <p>14 This video deposition is taking</p> <p>15 place at the law firm of Covington & Burling,</p> <p>16 1201 Pennsylvania Avenue, Northwest, Washington</p> <p>17 D.C. 20004 and was noticed by Robert P. Latham,</p> <p>18 counsel for the Defendants.</p> <p>19 Would counsel please identify</p> <p>20 themselves and state whom they represent.</p> <p>21 MR. LATHAM: Bob Latham for the</p> <p>22 Defendants.</p> <p>23 MR. ORFANEDES: Paul Orfanedes for</p> <p>24 the Defendants, Robert Wright and John Vincent.</p> <p>25 MR. KAITCER: Jeff Kaitcer for the</p>	<p>1 in court proceedings that are currently underway</p> <p>2 in Texas?</p> <p>3 A. I do.</p> <p>4 Q. How are you currently employed?</p> <p>5 A. I'm a Supervisory Special Agent</p> <p>6 with the FBI.</p> <p>7 Q. And what office do you work out</p> <p>8 of?</p> <p>9 A. Headquarters.</p> <p>10 Q. Which is in Washington, D.C.?</p> <p>11 A. It is.</p> <p>12 Q. And that's where we are today?</p> <p>13 A. It is.</p> <p>14 Q. How long have you been a</p> <p>15 Supervisory Special Agent?</p> <p>16 A. I've been a Supervisory Special</p> <p>17 Agent since January of 1996.</p> <p>18 Q. What are the duties of a</p> <p>19 Supervisory Special Agent?</p> <p>20 A. They vary, depending on the</p> <p>21 assignment.</p> <p>22 Q. In general, can you give me some</p> <p>23 examples?</p> <p>24 A. Generally managerial position,</p> <p>25 whether it's a program manager of a specific</p>
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<p>1 Plaintiff, Gamal Abdel-Hafiz.</p> <p>2 MR. BENSON: John Benson for the</p> <p>3 FBI.</p> <p>4 THE VIDEOGRAPHER: The court</p> <p>5 reporter today is Paula Satkin of Legal-Link</p> <p>6 Dallas. Would the reporter please swear in the</p> <p>7 witness.</p> <p>8 Whereupon--</p> <p>9</p> <p>10 MICHAEL DAVID RESNICK</p> <p>11 a witness, called for examination, having been</p> <p>12 first duly sworn, was examined and testified as</p> <p>13 follows:</p> <p>14</p> <p>15 EXAMINATION BY COUNSEL FOR DEFENDANTS</p> <p>16</p> <p>17 BY MR. LATHAM:</p> <p>18 Q. Mr. Resnick, will you please state</p> <p>19 your full name for the jury, please?</p> <p>20 A. Michael David Resnick.</p> <p>21 Q. Have you ever had your deposition</p> <p>22 taken before?</p> <p>23 A. Not that I recall.</p> <p>24 Q. You understand that you're under</p> <p>25 oath today and that your testimony can be used</p>	<p>1 program or managing anywhere from a small to a</p> <p>2 large group of agents.</p> <p>3 Q. The word Supervisory Special</p> <p>4 Agent -- maybe we can get at it this way. Who</p> <p>5 do you supervise?</p> <p>6 A. Currently I supervise a group of</p> <p>7 approximately 86 contractors and government</p> <p>8 employees at the National Counterterrorism</p> <p>9 Center.</p> <p>10 Q. How about historically?</p> <p>11 A. Historically, typically a</p> <p>12 supervisor, a Headquarters supervisor works in a</p> <p>13 unit at Headquarters and supervises anywhere</p> <p>14 between probably, oh, five and ten analysts</p> <p>15 and/or agents, specifically dealing with a</p> <p>16 certain subject matter such as a specific</p> <p>17 counterterrorism program.</p> <p>18 Q. Have you been in the Headquarters</p> <p>19 office of the Bureau since '96?</p> <p>20 A. With the exception of</p> <p>21 approximately a year when I was out in the San</p> <p>22 Francisco field office.</p> <p>23 Q. How long have you been with the</p> <p>24 FBI?</p> <p>25 A. Since 1990. January 8th, 1990.</p>

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<p>1 Q. Can you take me through your job 2 titles between 1990 and when you became a 3 Supervisory Special Agent in January 1996? 4 A. Yes. I went to the FBI Academy 5 January 8th, 1990, graduated in April of 1990. 6 My first office of assignment was 7 the Los Angeles field office, Santa Ana Resident 8 Agency, where I was sent to the White Collar 9 Squad for approximately six years. 10 I was promoted to Headquarters 11 Supervisor in January of 1996 where I was the 12 Supervisor in the Office of Professional 13 Responsibility, which is the Bureau's Internal 14 Affairs component. I spent approximately two 15 years in that capacity and then was awarded the 16 position of Field Supervisor in San Francisco 17 field office, San Jose Resident Agency, where I 18 ran an Agent Criminal Enterprise Squad for a 19 year and was transferred back to FBI 20 Headquarters, where in March 1999 I was assigned 21 to the Middle East Unit, International Terrorist 22 and Operations Section, Counterterrorism 23 Division, where I was Headquarters Supervisor in 24 the Middle East Unit which handled a bunch of 25 Palestinian extremist groups. I was in that</p>	<p>1 the major investigative functions of the FBI to 2 legal training to extensive firearms training. 3 Practical applications such as surveillance 4 techniques, and role playing exercises. 5 Q. In those role playing exercises do 6 you study phrases used in the FBI circles, 7 consensual monitoring of suspects? 8 A. Yes. 9 Q. And can you tell me what that 10 phrase in FBI parlance, consensual monitoring, 11 means? 12 A. Wire tap. 13 Q. The consent is only coming from 14 one party? 15 A. Correct. Generally. 16 Q. Right. 17 A. You can have two-party consensual 18 monitoring. 19 Q. Let's go back a little further in 20 time. 21 Can you tell me your educational 22 history post high school? 23 A. Sure. I attended University of 24 Wisconsin Madison, undergrad, graduated with a 25 degree in political science with honors, a BA.</p>
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<p>1 capacity for three years, when in August of 2002 2 I was assigned to the White House -- to the 3 White House Executive Office of the President, 4 Office of Homeland Security, where I was an 5 assignee, FBI representative to the White House. 6 Then transferred to Homeland Security Council, 7 which is also a component of the EOP of the 8 White House, and in April of 2003 I became an 9 assignee at then the TTIC, Terrorist Threat 10 Integration Center, TTIC, which later changed 11 its name to the National Counterterrorism 12 Center. So I've been at TTIC/NCTC since April 13 28th, 2002. 14 Q. You mentioned your training. Was 15 that at Quantico? 16 A. Correct. 17 Q. Can you just tell me briefly what 18 training involves, without divulging the secret 19 sauce? 20 A. Training involves a -- it's a 21 combination of academics, firearms training, and 22 practical applications. Basically prepares you 23 to be a generalist, to the go out in the field 24 and take whatever assignment is given to you. 25 So it is a series of courses in everything from</p>	<p>1 Then attended law school, DePaul University, 2 College of Law, where I graduated in 1985 with a 3 law degree. 4 Subsequent to graduating I 5 practiced law for approximately five years 6 before joining the Bureau. Four of those years 7 as a prosecutor, one year in private practice. 8 Q. Were you a prosecutor in the 9 Chicago area? 10 A. No. Actually, in Wisconsin. I 11 served two years in the Sheboygan District 12 Attorney's Office, one year in the Milwaukee 13 City Attorney's Office, Prosecution Division. 14 Then went on to private practice, 15 small community north of Milwaukee, where I 16 practiced criminal defense, some general civil 17 litigation, as well as being the Assistant City 18 Attorney for the city that we lived in. 19 Q. What city was that? 20 A. Cedarburg, Wisconsin. 21 Q. And you've been with the Bureau 22 continuously since 1990; correct? 23 A. Correct. 24 Q. When did you become aware of an 25 agent named Gamal Abdel-Hafiz, who is sitting</p>

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<p>1 here today?</p> <p>2 A. While assigned to the Middle East</p> <p>3 Unit, sometime probably in the 1999 time period.</p> <p>4 I can't remember an exact date.</p> <p>5 Q. How did -- how did you become</p> <p>6 aware of Mr. Abdel-Hafiz?</p> <p>7 A. While assigned to the Middle East</p> <p>8 Unit I was more specifically assigned a specific</p> <p>9 program, Hamas program, H-A-M-A-S, and within</p> <p>10 that program I was assigned specific cities.</p> <p>11 Initially, Dallas, Chicago, Milwaukee, a few</p> <p>12 other cities. Gamal was an agent in Dallas at</p> <p>13 the time.</p> <p>14 Q. Did you have -- have you ever met</p> <p>15 Mr. Abdel-Hafiz before today?</p> <p>16 A. Yes.</p> <p>17 Q. On how many occasions?</p> <p>18 A. I can't remember exactly. I</p> <p>19 traveled to Dallas on a number of occasions</p> <p>20 as -- in my managerial responsibility for the</p> <p>21 Hamas program, and I'm sure that I casually</p> <p>22 interacted with him during those visits. I</p> <p>23 would guess three to six times I traveled to</p> <p>24 Dallas.</p> <p>25 Q. Were you aware of an investigation</p>	<p>1 Q. Let's start with Chicago. Do you</p> <p>2 know who you spoke to in Chicago about it?</p> <p>3 A. I would have spoken to Bob Wright</p> <p>4 and Tim Gossfeld, his supervisor.</p> <p>5 Q. What did you learn from speaking</p> <p>6 to Mr. Wright and Mr. Gossfeld?</p> <p>7 A. To the best of my recollection I</p> <p>8 recall that there was a request that had been</p> <p>9 made of the Dallas field office and there was</p> <p>10 resistance to that request.</p> <p>11 Q. And who put up the resistance to</p> <p>12 that request?</p> <p>13 A. My recollection was that Gamal had</p> <p>14 indicated that he was unwilling to perform a</p> <p>15 specific request that had been made by the</p> <p>16 Chicago field office.</p> <p>17 Q. As a Supervisory Special Agent is</p> <p>18 it one of your responsibilities to try to, for</p> <p>19 lack of a better phrase, investigate or look</p> <p>20 into a conflict between two field offices?</p> <p>21 A. I would use the word mediate. I</p> <p>22 spend a fair amount of time in my stint at -- in</p> <p>23 the Middle East Unit trying to resolve</p> <p>24 differences and make sure that investigations</p> <p>25 were successful.</p>
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<p>1 being conducted out of the Chicago office known</p> <p>2 as the Vulgar Betrayal investigation?</p> <p>3 A. Vulgar Betrayal. Yes. One of the</p> <p>4 field offices that was under my Headquarters</p> <p>5 management responsibility was also the Chicago</p> <p>6 field office.</p> <p>7 The Vulgar Betrayal, the case was</p> <p>8 one of the cases that I was assigned.</p> <p>9 Q. Was it an important case?</p> <p>10 A. Yes.</p> <p>11 Q. Were you aware of Agents, Bob</p> <p>12 Wright and John Vincent, in their role in the</p> <p>13 Vulgar Betrayal investigation?</p> <p>14 A. Yes.</p> <p>15 Q. Did you become aware of a time</p> <p>16 when Agents Wright and Vincent and others wanted</p> <p>17 Mr. Abdel-Hafiz to monitor a suspect in the</p> <p>18 Vulgar Betrayal investigation?</p> <p>19 A. Yes.</p> <p>20 Q. How did you become involved? How</p> <p>21 did you learn of that?</p> <p>22 A. I don't recall specifically. To</p> <p>23 the best of my recollection it was through</p> <p>24 conversations with both the Dallas and Chicago</p> <p>25 field offices.</p>	<p>1 Q. To use your word, mediate, did you</p> <p>2 have that role in this situation where there was</p> <p>3 a request out of the Chicago office and</p> <p>4 resistance from the Dallas office?</p> <p>5 A. I don't have an independent</p> <p>6 recollection that I actually mediated. I do</p> <p>7 have an independent recollection that I became</p> <p>8 aware of the difference of opinion and discussed</p> <p>9 that difference of opinion with both sides. I</p> <p>10 don't recall at what point I got involved in the</p> <p>11 incident, so I'm unclear -- I'm unclear as to</p> <p>12 whether I had more of a mediation role or more</p> <p>13 of an informational role.</p> <p>14 Q. Who did you speak to in the Dallas</p> <p>15 office with regard to the situation?</p> <p>16 A. I would have spoken to -- I recall</p> <p>17 speaking to Gamal. I also believe I spoke to</p> <p>18 his supervisor, Tino Perez, at the time.</p> <p>19 Q. And what did Gamal tell you?</p> <p>20 A. To the best of my recollection I</p> <p>21 believe I was down in Dallas on other business,</p> <p>22 and at one point during my meetings Gamal and I</p> <p>23 had a private discussion regarding the incident.</p> <p>24 I don't have an independent recollection as to</p> <p>25 the content of that discussion.</p>

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<p>1 Q. Okay. I may be able to show you a 2 document or two to refresh your recollection. 3 Before I do that I want to -- I want to read for 4 you a statement that Agent Gossfeld made at his 5 deposition at page 65 and ask you if you agree 6 with it.</p> <p>7 He said, "we are part of the 8 Federal Bureau of Investigation, not the 9 Individual Bureau of Investigation. We don't 10 work for ourselves, we don't work for the SAC in 11 Chicago, we work for the American people."</p> <p>12 Do you agree with that?</p> <p>13 MR. KAITCER: Object to the form 14 of the question.</p> <p>15 THE WITNESS: Can you read it 16 again?</p> <p>17 BY MR. LATHAM:</p> <p>18 Q. Sure. It says, "we are part of 19 the Federal Bureau of Investigation, not the 20 Individual Bureau of Investigation. We don't 21 work for ourselves, we don't work for the SAC in 22 Chicago, we work for the American people." I'll 23 also read the next sentence, too. "We are 24 fulfilling an obligation to the American people 25 in investigating all types of crimes,</p>	<p>1 that Agent Patton said on page 22 of his 2 deposition regarding the responsibility of one 3 office of the FBI to another office. He said 4 quote -- he said that it's, "our responsibility 5 to -- let me start that over. He said that it's 6 "our responsibility to assist other divisions of 7 the FBI when and where we could and felt we 8 should."</p> <p>9 MR. KAITCER: I object. If that's 10 a question, which I don't think it is yet.</p> <p>11 BY MR. LATHAM:</p> <p>12 Q. The question is do you agree with 13 that statement?</p> <p>14 MR. KAITCER: I object to the form 15 of the question.</p> <p>16 THE WITNESS: I would -- I would 17 slightly disagree with that opinion.</p> <p>18 I would say it's probably as we 19 are directed to, as opposed to -- that opinion 20 expresses a little more discretion probably than 21 I think the reality is. There is a procedure in 22 the Bureau where one office can set leads to 23 another office and those leads have to be 24 accomplished, but there's also a triage process. 25 So mechanically when one office needs the</p>
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<p>1 administrative violations, and acts of terrorism 2 and efforts to support terrorism."</p> <p>3 MR. KAITCER: Go ahead.</p> <p>4 BY MR. LATHAM:</p> <p>5 Q. My question is do you agree with 6 that statement of the role of an FBI agent?</p> <p>7 MR. KAITCER: I object to the form 8 of the question.</p> <p>9 BY MR. LATHAM:</p> <p>10 Q. You can answer. He's just doing 11 that for the record.</p> <p>12 A. I believe that question is a 13 combination of fact and opinion. Factually, I 14 agree that the Federal Bureau of Investigation 15 is an accurate description of its name, and not 16 Independent Bureau of Investigation. And I 17 generally agree with the thrust of the opinion 18 that you read.</p> <p>19 Q. Okay. Do you know Agent Ron 20 Patton in the Dallas office?</p> <p>21 A. I recognize the name. I don't 22 believe I had any significant interaction with 23 him. I believe there was a transition and I 24 dealt with Tino Perez, his successor.</p> <p>25 Q. Okay. Let me read you something</p>	<p>1 assistance of another office they in essence put 2 it in writing, and that lead has to be covered 3 as deemed appropriate by the supervisor.</p> <p>4 So it isn't up to the discretion 5 of an agent to fulfill a lead or not, it is 6 really up to the discretion of the supervisor to 7 assign that lead.</p> <p>8 BY MR. LATHAM:</p> <p>9 Q. Do you feel in general that one 10 office of the FBI has a responsibility to other 11 offices of the FBI to follow leads as they come 12 in?</p> <p>13 A. I think there's an obligation to, 14 based on a triage system.</p> <p>15 Q. Let me hand you what's been marked 16 previously in this litigation as Exhibit 11A. 17 I've got a copy for you. It is a document 18 that's dated April 16, 1999, and it shows you as 19 a recipient of it. Do you recall receiving this 20 document?</p> <p>21 A. I have no independent recollection 22 of receiving it. That doesn't mean that I 23 didn't, it just means I don't recognize it. I 24 literally see thousands of ECs.</p> <p>25 Q. When you say ECs, what are you</p>

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<p>1 referring to?</p> <p>2 A. Electronic communications, which</p> <p>3 is the standard communication in which the</p> <p>4 Bureau communicates internally.</p> <p>5 Q. How can you tell this is an</p> <p>6 electronic communication?</p> <p>7 A. Standard format. The to, from.</p> <p>8 It's an internal document between field offices.</p> <p>9 You can just tell by the structure of the</p> <p>10 document that the EC replaced a series of other</p> <p>11 types of documents in the 1990s, and this is the</p> <p>12 standard communications mechanism between field</p> <p>13 offices.</p> <p>14 Q. When it says at the top,</p> <p>15 attention, and one of the people listed is</p> <p>16 NS-3B, SSA Mike Resnick, what does NS-3B mean?</p> <p>17 A. That was the designation for our</p> <p>18 unit, National Security. We were part of the</p> <p>19 National Security Division, initially, and 3B</p> <p>20 was the specific unit that I was assigned, which</p> <p>21 was the Middle East Unit.</p> <p>22 Q. Who is Chris Hamilton?</p> <p>23 A. Chris Hamilton was the Acting Unit</p> <p>24 Chief of the Middle East Unit prior to a</p> <p>25 permanent Unit Chief being named, which was</p>	<p>1 to essentially monitor was indeed a target of</p> <p>2 the investigation?</p> <p>3 A. I don't have any recollection of</p> <p>4 whether he was a target or subject.</p> <p>5 Target is a term of art in the</p> <p>6 Bureau, and I don't recall whether he was, in</p> <p>7 fact, a target.</p> <p>8 Q. Do you know if this document would</p> <p>9 reflect whether or not he was a target?</p> <p>10 A. I haven't read the document. If</p> <p>11 you would like me to read the unredacted</p> <p>12 portions I could probably see if it makes that</p> <p>13 reference.</p> <p>14 Q. Let me see if I can help you.</p> <p>15 A. Thank you.</p> <p>16 Q. If you look on page 4, underneath</p> <p>17 the big large portion that's redacted there's a</p> <p>18 sentence that says, "Charles Storey discovered</p> <p>19 that blank was a target of the Vulgar Betrayal</p> <p>20 investigation." This is after a sentence that</p> <p>21 says, "upon his return to Dallas, SA Abdel-Hafiz</p> <p>22 obtained some Vulgar Betrayal information from</p> <p>23 Detective Charles Storey, Dallas JTTF." Does</p> <p>24 that refresh your recollection?</p> <p>25 A. No, because I don't know what name</p>
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<p>1 Patrick Cook.</p> <p>2 Q. Who is Steve Aleo, is it?</p> <p>3 A. Aleo. IOS Steve Aleo was an</p> <p>4 Analyst, Investigative Operational Specialist, I</p> <p>5 believe. He was one of the analytic support</p> <p>6 personnel that was assigned to the Middle East</p> <p>7 Unit.</p> <p>8 Q. And this is approved by Thomas Van</p> <p>9 Nuys and Tim Gossfeld. We've talked about Tim</p> <p>10 Gossfeld. Who is Tim Van Nuys?</p> <p>11 A. It would have been Tim Gossfeld's</p> <p>12 boss. Most likely it would have been an ASAC,</p> <p>13 Assistant Special Agent in Charge.</p> <p>14 Q. Did they approve this EC?</p> <p>15 A. Apparently. The initials appear,</p> <p>16 so that would signify that they signed off on</p> <p>17 it.</p> <p>18 Q. Is the subject matter of this EC</p> <p>19 generally what we've been discussing about the</p> <p>20 Chicago office wanting Mr. Abdel-Hafiz to</p> <p>21 consensually monitor a target of the Vulgar</p> <p>22 Betrayal investigation?</p> <p>23 A. That's what it appears to be.</p> <p>24 Q. Did you understand that the person</p> <p>25 that the Chicago office wanted Mr. Abdel-Hafiz</p>	<p>1 has been redacted out. Clearly they're</p> <p>2 discussing a target of Vulgar Betrayal. I just</p> <p>3 don't know whether that was the same individual</p> <p>4 that Chicago requested to have Gamal wear the</p> <p>5 wire on.</p> <p>6 Since I don't have any independent</p> <p>7 recollection, when I read that sentence it's</p> <p>8 clear they're discussing a target. It's not</p> <p>9 clear -- in this instance, the name of the</p> <p>10 target is redacted. I can't say with</p> <p>11 100 percent certainty that we are talking about</p> <p>12 the same person. I think it is probably a</p> <p>13 common sense assumption.</p> <p>14 Q. Okay. This was written by Agent</p> <p>15 Wright; correct, and approved by Tom Van Nuys</p> <p>16 and Tim Gossfeld?</p> <p>17 A. That's what it appears to be. I</p> <p>18 don't have any firsthand knowledge of that.</p> <p>19 Q. Do you have any reason to doubt</p> <p>20 that?</p> <p>21 A. No.</p> <p>22 Q. If you look at page 4, the second</p> <p>23 to last paragraph after the -- after a word</p> <p>24 that's redacted it says, "SA Abdel-Hafiz was</p> <p>25 told that he should meet with him, referencing</p>

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<p>1 the target, however, he would have to record the 2 conversation since this person is the subject of 3 a major criminal investigation." 4 Did I read that correctly? 5 A. Yes. In that sentence it refers 6 to the individual as a subject as opposed to a 7 target, slightly different meaning. 8 Q. What's the difference? 9 A. A target is usually more in the 10 context of a prosecutorial decision to identify 11 someone as a target of an investigation. A 12 subject is a Bureau term of art which just means 13 that they're the one that's being investigated. 14 So I would defer to counsel as to 15 legal definition of a target based on DOJ 16 policy, but it's a DOJ term more than an FBI 17 term. 18 Q. I'm not looking for a legal 19 definition. In either case, whether it is 20 target or subject, does it convey that the 21 person is -- 22 A. The focus. 23 Q. -- the focus of an investigation? 24 A. Correct. 25 Q. Now, whether -- regardless of the</p>	<p>1 command would have the authority to tell him 2 that. Another field office does not have that 3 authority. 4 BY MR. LATHAM: 5 Q. Regardless of that triage, does 6 this, as you've described it, does this document 7 reflect that someone within the FBI told him 8 that he would have to do this? 9 A. Yes. 10 MR. KAITCER: Objection as to 11 form. Objection, leading. 12 THE WITNESS: Yes. That's the 13 implication. 14 BY MR. LATHAM: 15 Q. Is it an implication or does it 16 specifically say that SA Abdel-Hafiz was told he 17 should meet and he would have to record the 18 conversation? 19 MR. KAITCER: Objection, form. 20 Objection, leading. 21 THE WITNESS: Since it doesn't 22 state who told him that, all we know is someone 23 told Gamal, according to this document someone 24 told Gamal he would have to do that. I can't -- 25 I don't know who, so I don't know whether that</p>
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<p>1 triage that you talked about or the protocol, 2 does this document which -- this is a public 3 document; correct? 4 A. No. 5 Q. It's not a public document? 6 A. ECs are not public documents, they 7 are internal FBI communications. 8 Q. Is it a document that's kept by 9 the FBI? 10 A. Yes. 11 Q. Is it an official document? 12 A. Yes. 13 Q. Does this official document 14 reflect that at least one agent, approved by two 15 other agents, is stating that Mr. Abdel-Hafiz 16 was told that he should meet with this subject 17 or target and that he would have to record the 18 conversation? 19 MR. KAITCER: Objection, form. 20 THE WITNESS: I mean, I'm unclear 21 as to who told Gamal -- I haven't read this 22 document in its entirety, but from that sentence 23 it says that Gamal was told that he should meet 24 with him. It doesn't indicate who told him 25 that. The -- only people in his chain of</p>	<p>1 was valid or not. 2 BY MR. LATHAM: 3 Q. And this is an official FBI 4 document? 5 A. It is an official FBI document. 6 Q. On the top of page 5 the document 7 says, "the call concluded with SA Abdel-Hafiz 8 deciding not to pursue a meeting with blank." 9 Does this document reflect that 10 that was Abdel-Hafiz' decision, not somebody 11 else's? 12 MR. KAITCER: Objection, form. 13 Objection, leading. 14 THE WITNESS: That's what this 15 document represents. 16 BY MR. LATHAM: 17 Q. This is an FBI document; correct? 18 A. It still is an FBI document. 19 Q. Did you ever see -- let me ask you 20 this. 21 Were you aware of an affidavit 22 prepared by Agent Wright in connection with a 23 discrimination action brought by Gamal 24 Abdel-Hafiz? 25 A. I'm sorry, an affidavit by Wright?</p>

<p style="text-align: right;">Page 29</p> <p>1 Q. Yes. Prepared by -- have you ever 2 seen an affidavit or declaration of Agent 3 Wright? 4 A. No. 5 Q. Were you aware that there was a 6 discrimination charge brought by Mr. Abdel-Hafiz 7 in which Agent Wright prepared an affidavit? 8 A. Not to sound like a lawyer, but 9 that's two questions. 10 I'm aware that there was a suit. 11 I am not aware of the second part of the 12 question. 13 Q. How did you become aware of the 14 suit? 15 A. I don't recall specifically. 16 Clearly, I've talked to Gamal -- I talked to 17 Gamal about it once in Dallas. I don't recall 18 the content of that conversation. I do know I 19 was made aware of the fact there was a suit. 20 Q. Did you ever have to play any 21 official role in that proceeding? 22 A. Not that I recall. 23 Q. You didn't -- your role as a 24 mediator, if you will, didn't come into play in 25 that?</p>	<p style="text-align: right;">Page 31</p> <p>1 sentence at the bottom of page 5, going to the 2 top of page 6, that agent Abdel-Hafiz responded 3 that the secret -- "the secret recording of a 4 conversation between Muslims is regarded in the 5 Muslim culture as the ultimate act of betrayal." 6 It goes on to say that Special Agent Abdel-Hafiz 7 related it was a cultural matter that the other 8 agents wouldn't understand. Do you see that? 9 A. Yes. 10 Q. Was that your understanding why 11 agent Abdel-Hafiz didn't want to record a Muslim 12 subject or a Muslim target? 13 MR. KAITCER: Objection, form. 14 Objection, leading. 15 THE WITNESS: My understanding is 16 that was a component of the -- the rest of it is 17 explained in the sentence in that his main 18 function in the Dallas field office was that of 19 liaison with the Muslim community and he felt 20 that if it was discovered that he wore a wire 21 against a fellow Muslim it would decrease his 22 ability to fulfill his mission, because they 23 would lose trust in him. 24 BY MR. LATHAM: 25 Q. Does this electronic</p>
<p style="text-align: right;">Page 30</p> <p>1 A. I don't have any specific 2 recollection that I did. 3 Q. All right. 4 A. Just to explain. If my 5 recollection serves me, it's because the head of 6 the Chicago and the head of the Dallas field 7 offices were in essence mediating themselves in 8 this case. There was dialogue between the field 9 offices, and I don't believe my role was 10 necessary as a mediator. 11 Q. Who were those heads at the time? 12 A. Danny Defenbaugh was the head of 13 the Dallas field office and I know that at one 14 point Kathleen McChesney was the head of the 15 Chicago field office. I don't know if it was 16 her at the time. It could have predated her. 17 Q. Let me direct your attention back 18 to the exhibit in front of you, Exhibit 11A. 19 There's a paragraph that starts at the bottom of 20 page 5 and concludes on the top of page 6, which 21 recites the reasons given by Mr. Abdel-Hafiz for 22 not consensually recording the person that was a 23 subject or a target. Do you see that paragraph? 24 A. Yes. 25 Q. One of the things it says in the</p>	<p style="text-align: right;">Page 32</p> <p>1 communication, an FBI document that you 2 received, reflect that Mr. Abdel-Hafiz stated to 3 other agents that recording a conversation 4 between Muslims is regarded in the Muslim 5 culture as the ultimate act of betrayal? 6 MR. KAITCER: Objection, form. 7 Objection, leading. 8 THE WITNESS: I believe that's 9 what this document states, but I believe that is 10 an AUSA citing, Assistant U.S. Attorney. I 11 think this paragraph says, is recounting a 12 discussion between an ASUA and Gamal and that 13 was the reason. I think that's described in 14 this document. 15 BY MR. LATHAM: 16 Q. Did you ever have -- and it's 17 relating a conversation that a number of people 18 were on; correct? Mr. Abdel-Hafiz and people in 19 the Chicago office? 20 A. I'm sorry? 21 Q. It's relating a conversation that 22 a number of people were on the call, but you 23 weren't one of them; correct? 24 A. Correct. 25 Q. Did you ever in your role as a</p>

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<p>1 Supervisory Special Agent look into what was 2 said on that call or what wasn't said on that 3 call? 4 A. I don't have any independent 5 recollection of doing that. 6 Q. In your private meeting with 7 Mr. Abdel-Hafiz that you mentioned when you were 8 in the Dallas office, you touched on this 9 subject matter; correct? 10 A. I believe so. 11 Q. Did he disavow that cultural 12 issues were part of the reason why he did not 13 want to consensually record another Muslim? 14 MR. KAITCER: Objection to form. 15 Objection, leading. 16 THE WITNESS: While I don't have 17 specific recollection of the discussion, I 18 believe there was nothing that we discussed that 19 was inconsistent with the description on this 20 document. 21 BY MR. LATHAM: 22 Q. This document being Exhibit 11A? 23 A. Yes. 24 Q. Okay. 25 A. I'm looking at the content of this</p>	<p>1 BY MR. LATHAM: 2 Q. Did that ever change? 3 MR. KAITCER: Objection, form. 4 Objection, leading. 5 THE WITNESS: Not to my 6 recollection. 7 BY MR. LATHAM: 8 Q. Let me hand you what's been 9 previously marked in this case as Exhibit 41. 10 This is dated April 21, 1999, 11 bears a heading of Federal Bureau of 12 Investigation, and shows you as a recipient. 13 Can you tell me what this document is? 14 A. It's an electronic communication. 15 Q. Who is it drafted by? 16 A. It's drafted by Gamal. 17 Q. Do you have any independent 18 recollection as you sit here today of receiving 19 this? 20 A. No. 21 Q. Is any of the -- you'll notice 22 there's a bunch of handwriting at the bottom of 23 the first page and on the last page. Is any of 24 that handwriting yours? 25 A. No.</p>
Page 34	Page 36
<p>1 document. There is a discussion about risk to 2 his family. I frankly don't recall discussion 3 of risk. 4 Q. He didn't mention that to you? 5 A. I don't recall. 6 Q. Agent Resnick, let me hand you 7 what's been marked as Exhibit 12. And to be 8 fair, I'm not sure you've ever seen this 9 document. And that's my first question to you, 10 whether you know if you've seen this? 11 A. This is the last page of an EC. 12 Q. It may be the same EC. 13 A. It looks like it, dated the same, 14 same case number. I suspect this is the last -- 15 yeah, because it's page 7 and the first exhibit 16 you gave me ended at page 6. It appears to be 17 the last page of that document. 18 Q. All right. Was it your 19 understanding from where you were as a 20 Supervisory Special Agent that the Chicago 21 office still wanted Agent Abdel-Hafiz to 22 consensually monitor this suspect or target? 23 MR. KAITCER: Objection, form. 24 Objection, leading. 25 THE WITNESS: Yes.</p>	<p>1 Q. Is it unusual in an electronic 2 communication to have handwriting on it and 3 notations on it? 4 A. No. 5 Q. On the last page, page 3, there's 6 a note that says, "John, please ensure this 7 paragraph is included in the response." Do you 8 know who wrote that? 9 A. No. I could make an educated 10 guess. 11 Q. Sure. Go ahead. 12 A. Well, it's -- it's clear it's 13 written by the Chicago field office. Since it's 14 addressed to John, which I would imagine is John 15 Vincent, it's probably from his supervisor, Tim 16 Gossfeld. 17 Q. On the first page written by 18 Mr. Abdel-Hafiz, under details it states, 19 "reference communication requested SA 20 Abdel-Hafiz meet with a Vulgar Betrayal target 21 blank." 22 From reading this does -- would 23 you conclude that at least Mr. Abdel-Hafiz 24 viewed the person that Chicago wanted him to 25 consensually monitor as being a target?</p>

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<p>1 MR. KAITCER: Objection, form. 2 Objection, leading. 3 THE WITNESS: Yes. 4 BY MR. LATHAM: 5 Q. Is target a heightened level of 6 investigation over suspect? 7 A. Yes. 8 Q. Is there a level above target? 9 A. No, not that I'm aware of. 10 Q. In the last sentence of paragraph 11 4 of this EC written by Mr. Abdel-Hafiz he 12 states, "SAA Gossfeld concurred with both SSA 13 Patton and SA Abdel-Hafiz and advised SA 14 Abdel-Hafiz not to meet with blank at all." Did 15 I read that correctly? 16 MR. KAITCER: Objection, form. 17 Objection, leading. 18 THE WITNESS: I'm sorry. Where 19 are you? 20 BY MR. LATHAM: 21 Q. The last sentence of paragraph 4, 22 on page 2. 23 A. Okay. You read it correctly. 24 Q. All right. Was that your 25 understanding, that the Chicago office advised</p>	<p>1 this document Chicago backed off -- it appears 2 that Chicago backed off from the request. 3 BY MR. LATHAM: 4 Q. The portion of the document 5 written by Mr. Abdel-Hafiz? 6 MR. KAITCER: Objection, form. 7 Objection, leading. 8 THE WITNESS: Well, clearly from 9 the lead section of the April 16th document 10 Dallas has requested to conduct the consensual 11 monitoring. This document, which is written 12 five days later, indicates that the supervisor 13 in Chicago concurred that Gamal not meet with 14 the target. 15 BY MR. LATHAM: 16 Q. Let me hand you what's been marked 17 as Exhibit 40, which is an FBI communication of 18 May 17th, 1999. You are not shown as a 19 recipient of this, even though it relates to the 20 same subject matter. 21 My question is do you know why you 22 had been taken off the list of those being 23 copied? 24 A. Give me a second to review the 25 document. I might be able to answer that.</p>
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<p>1 Abdel-Hafiz not to meet with the target? 2 MR. KAITCER: Objection, form. 3 Objection, leading. 4 This witness already testified he 5 didn't have any personal knowledge of anything 6 anyway. 7 MR. LATHAM: Object to the 8 side-bar. 9 THE WITNESS: It's clear from the 10 sentence that the management of the Chicago 11 field office backed off from the request. 12 BY MR. LATHAM: 13 Q. Didn't you tell me earlier that 14 they still wanted him to do it? 15 A. My recollection is that Agent 16 Wright continued to want it. It's not 17 necessarily the case that the Agent's wishes are 18 always the same as the SAC's. 19 Q. But in a communication -- in an 20 electronic communication approved by both 21 Mr. Gossfeld and Mr. Van Nuys; correct, you 22 indicated they still wanted it? 23 MR. KAITCER: Objection, form. 24 Objection, leading. 25 THE WITNESS: Well, according to</p>	<p>1 Q. Take all the time you need. If 2 I'm not giving you enough time, just say so. 3 A. Okay. 4 My -- my best guess is that it was 5 just an omission, that it wasn't that I was 6 intentionally left off. I'm confident that the 7 acting unit chief would have handed me this 8 document in the normal course of business. 9 So this was an office I was 10 responsible for. Even though I don't have any 11 independent recollection, I'm confident Chris 12 Hamilton would have given me this document. 13 There is no reason I couldn't have seen this 14 document. 15 Q. That was going to be my next 16 question. 17 Just because you're not copied on 18 it doesn't mean you didn't get it? 19 A. Correct. 20 Q. If you'll compare Exhibit 40 to 21 the document that I showed you a moment ago, 22 Exhibit 41, take a look at the last paragraph. 23 And my question is does it 24 essentially type up the -- what had been 25 handwritten on paragraph 41?</p>

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<p>1 A. Yes.</p> <p>2 Q. That Chicago respected Agent</p> <p>3 Patton and Agent Abdel-Hafiz' opinion, but they</p> <p>4 did not specifically direct or advise Agent</p> <p>5 Abdel-Hafiz not to meet with the suspect or</p> <p>6 target; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Did you ever have any</p> <p>9 conversations with Agent Abdel-Hafiz about why</p> <p>10 he put in a report that Chicago specifically</p> <p>11 directed him not to meet with a target of an</p> <p>12 investigation, when Chicago was saying</p> <p>13 otherwise?</p> <p>14 MR. KAITCER: Objection, form.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MR. LATHAM:</p> <p>17 Q. Did that issue come up in your</p> <p>18 private conversation with Mr. Abdel-Hafiz?</p> <p>19 A. I have no independent recollection</p> <p>20 of that conversation, so I couldn't tell you.</p> <p>21 Q. And just to cut to the chase, did</p> <p>22 you ever have any conversations with Chicago,</p> <p>23 the Chicago office or Dallas office about this</p> <p>24 battle of forms as to who said what?</p> <p>25 A. My recollection, and I can't</p>	<p>1 A. Correct.</p> <p>2 Q. -- how long did that meeting take</p> <p>3 place?</p> <p>4 A. No more than 15 minutes.</p> <p>5 Q. It was just you and</p> <p>6 Mr. Abdel-Hafiz?</p> <p>7 A. I believe so. I believe so,</p> <p>8 though it's possible that Tino Perez was there.</p> <p>9 I just don't have a strong independent</p> <p>10 recollection.</p> <p>11 Q. Do you recall how far after this</p> <p>12 April 1999 time frame you met with Agent</p> <p>13 Abdel-Hafiz on this matter?</p> <p>14 A. No. I don't recall the time frame</p> <p>15 of the meeting, though I can say since I was</p> <p>16 just assigned to the Middle East Unit in March</p> <p>17 of '99 this was very early on in my tenure</p> <p>18 there, and early on I was -- certainly I was not</p> <p>19 as active as I would have been a year later. So</p> <p>20 I was much more likely to be a passive</p> <p>21 participant or observer in this process.</p> <p>22 Q. You say you were in Dallas on</p> <p>23 other business. Before you left Washington to</p> <p>24 travel to Dallas did you have it in your mind</p> <p>25 that you would be meeting with Agent Abdel-Hafiz</p>
Page 42	Page 44
<p>1 specify where it came from, was that Chicago</p> <p>2 wanted the consensual monitoring. The</p> <p>3 management in Dallas supported Gamal. It was</p> <p>4 Chicago's opinion that anything but a</p> <p>5 surreptitious monitoring would hurt the case.</p> <p>6 And ultimately SAC Defenbaugh, who was a very</p> <p>7 persuasive, forceful individual, was able to</p> <p>8 have his day and that he basically said his</p> <p>9 agent wasn't going to do anything that his agent</p> <p>10 ethically shouldn't do.</p> <p>11 Q. Is there anything unethical about</p> <p>12 a Muslim surreptitiously recording another</p> <p>13 Muslim?</p> <p>14 A. I wouldn't know. I'm not familiar</p> <p>15 enough with the Muslim religion to give you an</p> <p>16 answer.</p> <p>17 Q. Is there anything within the FBI</p> <p>18 procedures or DOJ procedures that would make it</p> <p>19 unethical for a Muslim to surreptitiously record</p> <p>20 another Muslim?</p> <p>21 A. Not that I'm aware of.</p> <p>22 Q. Do you remember anything that --</p> <p>23 the private meeting you had with Agent</p> <p>24 Abdel-Hafiz where this subject came up when you</p> <p>25 say you were in Dallas on other business --</p>	<p>1 about this?</p> <p>2 A. No.</p> <p>3 Q. It just came up?</p> <p>4 A. If I recall, and it's a vague</p> <p>5 recollection, I was conducting meetings on other</p> <p>6 cases. And at one point Gamal and I just left</p> <p>7 the room, and during a break, I believe, and</p> <p>8 just sat down and talked.</p> <p>9 Q. Who brought it up? It being the</p> <p>10 subject of this request for consensual</p> <p>11 monitoring?</p> <p>12 A. I -- my recollection is that Gamal</p> <p>13 just wanted to fill me in on what was happening.</p> <p>14 I don't believe I raised it.</p> <p>15 Q. Did he tell you why he wanted to</p> <p>16 fill you in on what was happening?</p> <p>17 A. I don't have an independent</p> <p>18 recollection, though it would have been logical</p> <p>19 since I had both the Dallas and Chicago field</p> <p>20 offices.</p> <p>21 Q. Did you get the sense from Agent</p> <p>22 Abdel-Hafiz that there was still a lingering</p> <p>23 issue?</p> <p>24 A. Yes.</p> <p>25 Q. What was the lingering issue?</p>

<p style="text-align: right;">Page 45</p> <p>1 A. Well, the Chicago investigation 2 was a long-term investigation and was being 3 conducted by an agent that was rather 4 aggressive, and I think it was -- it was just an 5 open issue. 6 Q. Did it ever close? 7 A. Clearly, it's still open. 8 Q. Did you ever speak with Agent 9 Vincent about what was said on the telephone 10 call? 11 A. No. I had very little interaction 12 with Agent Vincent. I might have met him on a 13 couple occasions, but I don't believe I've ever 14 had a substantive conversation with him. 15 Q. Is he a good agent? 16 A. I can't answer that question. I 17 have no idea. 18 Q. Any reason to believe otherwise? 19 A. No. 20 Q. Did you, either in your career 21 prior to the FBI, the five years when you were 22 in law practice and as a prosecutor, or during 23 your time with the FBI, did you ever have any 24 interaction with the U.S. Attorney's Office for 25 the Northern District of Illinois?</p>	<p style="text-align: right;">Page 47</p> <p>1 A. I don't believe I did. 2 Q. Do you know Mr. Chanenson or 3 Mr. Ferguson, who are in the U.S. Attorney's 4 Office? 5 A. Well. 6 Q. What's your view of them 7 professionally? 8 A. Top notch. 9 Q. Did you ever speak to them about 10 what was said on the telephone call? 11 A. Not that I recall. 12 Q. Did you understand they were on 13 the call that was at issue in these electronic 14 communications? 15 A. I must have been, because I was 16 copied on documents which references that. I 17 don't have any independent recollection today. 18 Q. Did you understand that each of 19 the persons that was on the call from Chicago 20 remembers Mr. Abdel-Hafiz as saying that a 21 Muslim does not record another Muslim? 22 MR. KAITCER: Objection, form. 23 Objection, leading. 24 THE WITNESS: I believe that's 25 what the documents reflect.</p>
<p style="text-align: right;">Page 46</p> <p>1 A. Repeatedly. 2 Q. Do you know Mark Flessner? 3 A. Well. 4 Q. What's your view of him? 5 A. How so? As a prosecutor? As a 6 nice guy? 7 Q. Let's talk professionally. 8 A. Professionally, quite aggressive. 9 Q. That's the second time you've used 10 that phrase. Is that a good thing to be if 11 you're going after terrorists? 12 A. I would think so. 13 Q. Have you ever known Mr. Flessner 14 to be anything other than an honest man? 15 MR. KAITCER: Objection, form. 16 Objection, leading. 17 THE WITNESS: I don't have any 18 independent recollection. 19 BY MR. LATHAM: 20 Q. Did you ever talk to Mr. Flessner 21 about what was said on this telephone call with 22 Mr. Abdel-Hafiz? 23 A. I don't believe so. 24 Q. Did you ever talk to Agent Wright 25 about it?</p>	<p style="text-align: right;">Page 48</p> <p>1 BY MR. LATHAM: 2 Q. Did you ever have any conversation 3 or did any information come to you from any of 4 those agents or U.S. Attorneys in Chicago where 5 they backed off of that? 6 MR. KAITCER: Objection, form. 7 Objection, leading. 8 THE WITNESS: No. 9 BY MR. LATHAM: 10 Q. And do you know whether or not 11 Agent Abdel-Hafiz ever did surreptitiously 12 record this target of a major terrorist 13 investigation? 14 A. I don't believe he did. 15 Q. Do you know if that target was 16 ever prosecuted? 17 A. As a result of this specific 18 investigation? 19 MR. BENSON: I'm going to object 20 to that question. It involves information that 21 is privileged, based on ongoing investigation 22 and/or criminal prosecutions resulting from 23 those investigations, and I'll instruct the 24 witness not to answer that question. 25 MR. LATHAM: Fair enough, John.</p>

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<p>1 Let me just clarify your objection. Does it 2 matter what the statement that Mr. Resnick made, 3 whether it came out of this investigation or 4 another one, or is your instruction just a 5 blanket instruction? 6 MR. BENSON: It is a blanket 7 instruction concerning either ongoing 8 investigation or investigations where there is 9 still pending investigations. 10 To the extent this witness knows 11 the case is, in fact, closed, and there are no 12 pending investigations, he can answer the 13 question. Otherwise, he cannot. 14 BY MR. LATHAM: 15 Q. Can you answer the question, 16 Mr. Resnick? 17 A. Yes. I believe this investigation 18 is closed. I do not believe the individual was 19 prosecuted as a result of this investigation. 20 Q. Were you aware at one point that 21 Agent Abdel-Hafiz was terminated from the FBI? 22 MR. KAITCER: Objection, form. 23 Objection, leading. 24 BY MR. LATHAM: 25 Q. I may not have the appropriate</p>	<p>1 Q. Have you ever heard of an incident 2 out of the Tampa office where Mr. Abdel-Hafiz 3 was requested to surreptitiously record another 4 Muslim? 5 MR. BENSON: I'm sorry. Go ahead 6 and complete your question if you wish. 7 MR. LATHAM: Just so our record is 8 clear, I'll go ahead and ask it. 9 BY MR. LATHAM: 10 Q. Have you ever heard of an incident 11 out of the Tampa office where Mr. Abdel-Hafiz 12 was requested to record a Muslim suspect in an 13 investigation and refused to do so? 14 MR. KAITCER: Objection, form. 15 Objection, leading. 16 MR. BENSON: I object to the 17 question. I believe it exceeds the scope of 18 your December 30th letter to Mr. John Parker, 19 where you've indicated the scope of this 20 deposition. It does not concern anything 21 concerning the Tampa investigation in that 22 letter. Therefore, I'll instruct the witness 23 not to answer the question or any further 24 questions about that investigation. 25 BY MR. LATHAM:</p>
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<p>1 technology. If you need to take issue with it. 2 A. I was recently made aware of that. 3 Q. You may have answered my question. 4 Did you have any involvement in 5 the investigation of those allegations against 6 him that led to his termination? 7 A. Absolutely not. 8 Q. Is it your understanding those 9 allegations, they didn't have anything to do 10 with this Vulgar Betrayal issue or the ABC news 11 report or Fox news report? 12 MR. KAITCER: Objection, form. 13 Objection, leading. 14 THE WITNESS: From the limited 15 information I was provided0 there appears to be 16 no connection between the two. 17 BY MR. LATHAM: 18 Q. And just to close the loop on 19 this, did you ever have any involvement in an 20 alleged insurance fraud on the part of 21 Mr. Abdel-Hafiz? 22 A. No. 23 Q. Do you know Barry Carmody in the 24 Tampa office of the FBI? 25 A. No.</p>	<p>1 Q. Are you aware of any other 2 incidents where someone made an allegation 3 against Mr. Abdel-Hafiz to record another 4 Muslim? 5 MR. KAITCER: Objection, form. 6 MR. BENSON: Same objection. That 7 is not covered in your letter of December 30th, 8 and I will not allow the witness to get into 9 issues that are not covered by your December 10 30th letter. The witness is instructed not to 11 answer that question or any further questions 12 along that line. 13 MR. LATHAM: Where are you reading 14 from, John? 15 MR. BENSON: I'm reading from your 16 second paragraph where it describes, I believe, 17 it says I would like to -- I've learned of an 18 additional FBI witness I would like to depose, 19 his name is Mike Resnick. And the paragraph 20 then goes on to indicate the areas that you wish 21 to depose Mr. Resnick on, and there's nothing in 22 there that I see concerning anything other than 23 the allegations that are subject of this 24 lawsuit, and there is reference to the purported 25 insurance fraud. Beyond that, I don't see that</p>

<p style="text-align: right;">Page 53</p> <p>1 you've indicated any other areas of inquiry. 2 MR. LATHAM: It says Mr. Resnick 3 investigated the incident involving the 4 Plaintiff and Defendants Wright and Vincent, 5 specifically the allegation that Special Agent 6 Abdel-Hafiz refused to secretly tape record a 7 Muslim. 8 Before we get back to the 9 objection, Agent Resnick, in looking into -- 10 there certainly was an allegation by other 11 agents that Mr. Abdel-Hafiz had refused to 12 record another Muslim; was there not? 13 MR. KAITCER: Objection, form. 14 Objection, leading. 15 BY MR. LATHAM: 16 Q. I'll cure the objection. 17 Was there an allegation being made 18 by other agents that Mr. Abdel-Hafiz had refused 19 to record another Muslim? 20 MR. KAITCER: Objection, form. 21 Objection, leading. 22 MR. BENSON: To the extent the 23 witness knows of any further investigations as a 24 result of what you purport to be his 25 investigation of the allegations by Defendants</p>	<p style="text-align: right;">Page 55</p> <p>1 conduct what you refer to as an investigation. 2 To me an investigation is a much more formal 3 proceeding, and I didn't. I was made aware of 4 facts, but I did not conduct a formal 5 investigation. 6 BY MR. LATHAM: 7 Q. In whatever your role was, and I 8 think my question was in looking into the 9 situation, did you look into other allegations 10 that -- or did you come across other allegations 11 that Mr. Abdel-Hafiz had refused to record 12 another Muslim? 13 MR. KAITCER: Objection, form. 14 Objection, leading. 15 THE WITNESS: The question is did 16 I look into. I didn't really look into it. I 17 was just made aware of certain facts. I didn't 18 conduct a pro-active investigation. 19 BY MR. LATHAM: 20 Q. Did you prepare a report? 21 A. Not that I recall. 22 Q. Did you prepare -- put anything 23 into writing regarding your views of this 24 incident where Chicago was trying to get 25 Mr. Abdel-Hafiz to record a Muslim?</p>
<p style="text-align: right;">Page 54</p> <p>1 Wright and Vincent, he may answer the question. 2 To the extent he has knowledge from any other 3 source or whatever, he cannot answer that 4 question. 5 BY MR. LATHAM: 6 Q. Let's take this in baby steps. I 7 wasn't quite there yet. 8 MR. BENSON: All right. 9 BY MR. LATHAM: 10 Q. In this instance are you aware of 11 whether or not agents were making the allegation 12 that agent Abdel-Hafiz had refused to record 13 another Muslim? 14 MR. KAITCER: Objection, form. 15 Objection, leading. 16 THE WITNESS: Yes. 17 BY MR. LATHAM: 18 Q. In looking at that situation did 19 you look into whether there were other instances 20 where agents had made an allegation that Agent 21 Abdel-Hafiz had refused to record another 22 Muslim? 23 MR. KAITCER: Objection, form. 24 Objection, leading. 25 THE WITNESS: No. I didn't</p>	<p style="text-align: right;">Page 56</p> <p>1 A. I have no independent 2 recollection. It's not to say I didn't, I just 3 don't have any recollection of doing it. 4 Q. I'm not asking this as any sort of 5 official protocol way, but if you have a private 6 conversation with an agent such as you did with 7 Agent Abdel-Hafiz in Dallas, is it the usual 8 course of business to memorialize that in 9 writing some way? 10 A. It would depend on the purpose of 11 the conversation. If the purpose was merely to 12 provide information, context, you know, the more 13 I think of it, the more I think he might have 14 asked my advice, though it's a very vague 15 recollection. That type of conversation I would 16 not necessarily document. 17 I would have or might have gone 18 back to my supervisor and orally briefed him, 19 but it wasn't -- I wasn't tasked to conduct an 20 investigation, that I can recollect. I wasn't 21 down there to discuss this topic. It was really 22 a collateral or peripheral matter that I had a 23 discussion regarding and I probably would have 24 gone back to Chris Hamilton and filled him in, 25 but there really wasn't a mechanism or a need</p>

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<p>1 for me to produce a formal document to put in a 2 file. 3 Q. Whether formal or informal, is it 4 your best recollection that you've never 5 prepared any document that comments on this 6 situation? 7 A. I don't recall ever preparing any. 8 It's not to say I didn't, but I have no 9 recollection that I did. 10 Q. You and I have never met; correct? 11 A. Correct. 12 Q. Never spoken before today; 13 correct? 14 A. Correct. 15 MR. LATHAM: Thank you for your 16 time today. I'll pass the witness. 17 MR. KAITCER: Can we take a break 18 first? 19 THE VIDEOGRAPHER: We are going 20 off the record. The time is 11:18 a.m. 21 (A brief recess was taken.) 22 THE VIDEOGRAPHER: We are back on 23 the record. The time is 11:33 a.m. 24 25 EXAMINATION BY COUNSEL FOR PLAINTIFF</p>	<p>1 A. I don't have any firsthand 2 knowledge, but based on the contents of the 3 document it appears that Robert Wright wrote it. 4 Q. On the part that says drafted by? 5 A. That's who the author should be. 6 Q. All right. Is -- Mr. Latham also 7 spent time going over Exhibit Number 41 with 8 you. Do you have that in front of you, as well? 9 A. I do. 10 Q. And I don't think he spent any 11 time characterizing this one, but is this also 12 an official FBI document? 13 A. It is. 14 Q. Okay. So Exhibit 11A has no more 15 official standing in terms of characterization 16 of a document than does Exhibit 41; isn't that 17 right? 18 A. Correct. They're both electronic 19 communications. 20 Q. You mentioned when Mr. Latham was 21 asking you some questions about, I think, a 22 triage process of decision-making? 23 A. Correct. 24 Q. Could you explain to the jury what 25 you mean by your use of the term triage?</p>
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<p>1 2 BY MR. KAITCER: 3 Q. Good morning, Special Agent 4 Resnick. My name is Jeff Kaitcer, I represent 5 the Plaintiff, Gamal Abdel-Hafiz. 6 A. Good morning. 7 Q. You and I have never met or spoken 8 before; have we? 9 A. No, sir. 10 Q. Let me ask you just a few 11 questions, if I could. Mr. Latham spent a long 12 time on Exhibit Number 11A. Do you have that in 13 front of you? 14 A. I do. 15 MR. LATHAM: Object to form. 16 MR. KAITCER: I'll rephrase it. 17 BY MR. KAITCER: 18 Q. Mr. Latham spent some time going 19 over with you what was in Exhibit 11A; isn't 20 that correct, sir? 21 A. Correct. 22 Q. He asked you, I think, if this was 23 an official FBI document? 24 A. Correct. 25 Q. Who wrote that document?</p>	<p>1 A. Supervisor -- a field supervisor 2 has a responsibility to make sure that the cases 3 that are assigned to various agents on the squad 4 are worked efficiently and effectively. It is 5 generally up to the supervisor who usually 6 reviews all incoming communications to determine 7 whether leads from outside or other field 8 offices should be prioritized as a high 9 priority, medium, or low priority. A lot of it 10 has to do with the workload of the agents on the 11 squad and the significance of the incoming 12 leads. 13 Q. Okay. Who was the field 14 supervisor for Special Agent Gamal Abdel-Hafiz? 15 A. Initially it was Patton and then 16 it was Perez. 17 Q. Okay. And what role did Danny 18 Defenbaugh play in this hierarchy, if you will? 19 A. The top. SAC Defenbaugh was the 20 head of the field office, the Special Agent in 21 Charge. 22 Q. And is he the individual who is 23 responsible for ultimately making decisions 24 about what actions Special Agent Abdel-Hafiz 25 would actually perform or not perform?</p>

<p style="text-align: right;">Page 61</p> <p>1 A. It's fair to characterize that. 2 He's the ultimate authority figure in the field 3 office. 4 Q. Okay. Based upon what you know 5 about this situation did -- was Gamal 6 Abdel-Hafiz ever ordered to secretly record a 7 Muslim suspected of terrorist connections? 8 MR. LATHAM: Object to form. 9 BY MR. KAITCER: 10 Q. You can answer the question. 11 A. Not that I'm aware of. 12 Q. Who would have the authority to 13 order Gamal Abdel-Hafiz to surreptitiously 14 record another person? 15 A. Theoretically, anyone in his chain 16 of command. His supervisor, his ASAC, his SAC, 17 or any executive management at Headquarters. 18 Q. Would Robert Wright have the 19 authority to order him to conduct such a 20 recording? 21 A. Absolutely not. 22 Q. Would Mark Flessner, Assistant 23 United States Attorney, have the authority to 24 order him to conduct such a covert recording? 25 A. Absolutely not.</p>	<p style="text-align: right;">Page 63</p> <p>1 Vulgar Betrayal. 2 Q. Okay. Now, do you have Exhibit 41 3 in front of you? 4 A. I do, sir. 5 Q. If I could reference you in 6 particular to paragraphs 4 -- first to paragraph 7 4 of that exhibit. There is a reference in that 8 exhibit that says -- in that paragraph that 9 says, "it was also explained that there existed 10 a huge potential for SA Abdel-Hafiz to lose his 11 ability to gather intelligence from the Arab 12 community if it were known in the community that 13 he had recorded a conversation between himself 14 and another Muslim seeking advice." Did I read 15 that correctly? 16 A. Correct. 17 Q. Were you familiar with the 18 activities of Special Agent Abdel-Hafiz in 19 gathering intelligence from the Arab community? 20 A. Generally, yes. 21 Q. Generally speaking, without 22 necessarily getting into details, what was his 23 role in doing so? Can you tell me what he was 24 involved in? 25 A. To liaise with the Muslim</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. Mr. Latham was asking you earlier 2 whether or not Vulgar Betrayal, the operation 3 called Vulgar Betrayal was an important 4 investigation. And I think you paused for a 5 minute and then you said yes. Was there a 6 particular reason why you paused? 7 MR. LATHAM: Object to form. 8 THE WITNESS: I was reviewing in 9 my mind the most significant investigations at 10 that time and prioritizing whether Vulgar 11 Betrayal fit within that. The fact that it's 12 called Vulgar Betrayal signifies that it was a 13 large scale operation. It wasn't just the name 14 of an individual as the subject. I believe it 15 had the status of a major investigation in the 16 Bureau. 17 BY MR. KAITCER: 18 Q. Okay. Do you know whether or not 19 Special Agent Gamal Abdel-Hafiz was working on 20 any important investigations out of the Dallas 21 office? 22 A. I don't have any independent 23 recollection, though there were investigations 24 out of the Dallas office on that squad that were 25 equally as significant or more significant than</p>	<p style="text-align: right;">Page 64</p> <p>1 community in the Dallas field office, develop 2 relationships and have those relationships 3 further the mission of the Bureau. 4 Q. How would those relationships 5 further the mission of the Bureau? 6 A. In many ways. Through mutual 7 understanding, through cultural sensitivity, 8 through the development of potential informants 9 or assets, through overt communications of 10 existence of criminal or terrorism activity that 11 might be shared with Gamal. In many intangible 12 ways. 13 Q. And are those -- 14 A. And recruitment, I'm sorry. The 15 Bureau didn't have a whole lot of Arabic 16 speaking agents. The fact that he would be seen 17 as a role model potentially in terms of 18 recruitment, people joining the Bureau, would be 19 of great benefit. 20 Q. And was this an important role 21 that he was fulfilling for the Bureau? 22 A. Yes. 23 Q. And based upon your understanding 24 of Special Agent in Charge Defenbaugh's reaction 25 to the Chicago request how do you believe he</p>

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<p>1 prioritized Special Agent Abdel-Hafiz' role? 2 MR. LATHAM: Object to form. 3 THE WITNESS: Well, it's clear 4 that he supported his agent. Whether he 5 supported his agent because of his assignment in 6 the Dallas division or alternatively because of 7 his sensitivity to potential religious 8 preferences, I have no idea. I've never spoken 9 to the former SAC about this. 10 BY MR. KAITCER: 11 Q. You never had a personal 12 conversation with Special Agent Defenbaugh? 13 A. I would suspect I've never had one 14 with him on any matter in my life. 15 Q. Are you familiar with his 16 reputation in the Bureau? 17 A. Vaguely. 18 Q. What is Special Agent Defenbaugh's 19 reputation in the Bureau? 20 A. Past tense. He's retired. 21 Q. Right. 22 A. It was forceful, strong-willed 23 individual, which is not uncharacteristic of 24 many SACs. Strong personalities. 25 Q. Okay. If you would look at</p>	<p>1 with respect to the Muslim community? 2 A. I have a vague recollection that 3 he had, though I don't have specifics. 4 Q. Could Gamal refuse an order given 5 to him by the Special Agent in Charge, Danny 6 Defenbaugh? 7 A. He could. I mean this isn't the 8 military. He could refuse any order, but he 9 would face adverse consequences for doing that. 10 Q. Okay. 11 A. Specifically, he would be 12 considered insubordinate in Internal Affairs 13 vernacular. 14 Q. So it would be a bad idea to 15 disobey your special agent in charge? 16 A. You would be considered 17 insubordinate. You could be written up for 18 internal investigation, subject to disciplinary 19 action. 20 Q. Okay. Were you aware that Special 21 Agent Wright went on national TV? 22 A. Yes. 23 MR. BENSON: I'm going to object 24 to continuation of that line of questioning. 25 It's outside the scope of the letter of December</p>
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<p>1 paragraph 5 of Exhibit Number 41 it is recited 2 that, "during the teleconference on 4/15/1999 3 between Chicago Agents and AISA's, and Dallas 4 Agent Abdel-Hafiz and his supervisor, Ronald 5 Patton, the fact of the potential loss of SA 6 Abdel-Hafiz' ability to assist the remaining 55 7 FBI field offices in gathering intelligence 8 regarding their investigations was not 9 addressed." Did I read that correctly? 10 A. You did. 11 Q. Do you have any understanding 12 about the phrase, "potential loss of Special 13 Agent Abdel-Hafiz' ability to assist the 14 remaining 55 FBI field offices in gathering 15 intelligence," what that is in reference to? 16 A. Yes. His function throughout the 17 Muslim community, as I expressed, whether it's 18 recruitment, intelligence gathering, all those 19 intangibles that I mentioned, would not only 20 support or benefit the Dallas field office, but 21 theoretically all the field offices within the 22 Bureau. 23 Q. Do you know if Special Agent 24 Abdel-Hafiz had ever worked with any other field 25 offices in gathering intelligence, particularly</p>	<p>1 30th. And since you didn't propose any 2 additional topics you're bound by those same 3 constraints. I will instruct the witness not to 4 answer those questions. 5 BY MR. KAITCER: 6 Q. Okay. I'll go about it a 7 different way. 8 With respect to the investigation, 9 Vulgar Betrayal, that Special Agent Wright -- 10 was Special Agent Wright involved with Vulgar 11 Betrayal? 12 A. I believe he was the case agent, 13 which means the lead investigator. 14 Q. All right. Is there a difference 15 between a criminal investigation being opened 16 and just sort of an intelligence operation 17 within the FBI? 18 A. Yes. Back then there was. 19 Q. Back then there was? 20 A. Yes. 21 Q. Okay. What is that difference? 22 A. Prior to probably two or three 23 years ago the FBI differentiated between 24 criminal terrorism investigations and 25 intelligence terrorism investigations with</p>

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<p>1 different classifications and, in fact, 2 established a wall between the two 3 investigations, pursuant to DOJ policy where the 4 agents were literally prevented in many cases 5 from discussing with each other their ongoing 6 investigations. The purpose of a criminal 7 terrorism investigation is just that, to 8 ultimately bring criminal prosecution to the 9 individuals -- the subjects of the 10 investigation. 11 The focus of an intelligence 12 investigation was to gather intelligence, but 13 not with the purpose of eventually prosecuting. 14 You can convert an intelligence 15 investigation into a criminal investigation, but 16 they really were two separate investigations and 17 were maintained as two separate investigations 18 with different case agents and different 19 investigators. 20 Q. Did you ever tell Bob Wright -- 21 did Bob Wright ever ask you to be able to open a 22 criminal investigation with respect to Vulgar 23 Betrayal? 24 A. It was already opened by the time 25 I arrived at Headquarters.</p>	<p>1 just better to let sleeping dogs lie? 2 MR. LATHAM: Object to form. 3 THE WITNESS: No, sir. I was not. 4 I did not say those words to him. He did have a 5 criminal terrorism investigation open. It was 6 on a different terrorist group than Osama bin 7 Laden. And to the best of my knowledge he was 8 never assigned to work that terrorist 9 organization, he was working another terrorist, 10 he was assigned another investigation called 11 Vulgar Betrayal. 12 BY MR. KAITCER: 13 Q. As I understand, Vulgar Betrayal 14 had as its targets individuals who had Hamas 15 connections; is that correct? 16 A. Correct. 17 Q. Did Special Agent Wright come to 18 you requesting -- let me ask you this question. 19 Do you know anyone within the 20 Bureau who told Agent Bob Wright that it's 21 better to just let sleeping dogs lie rather than 22 open a criminal investigation? 23 A. No. 24 Q. What was your connection with 25 Robert Wright in the chain of command?</p>
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<p>1 Q. It was opened as a criminal 2 investigation? 3 A. Right. It was in the vernacular 4 of the Bureau, a 265, which is a criminal 5 investigation. 6 Q. Did you ever tell Agent Wright 7 that it's better to let sleeping dogs lie? 8 MR. LATHAM: Object to form. 9 THE WITNESS: Do you have a 10 context? 11 BY MR. KAITCER: 12 Q. Well, the context is it's my 13 understanding Special Agent Wright has claimed 14 he wanted to open a criminal investigation into 15 the money trail that supposedly might lead to a 16 link to Osama bin Laden, and his supervisor 17 stopped him? 18 MR. LATHAM: Object to form, if 19 that's a question. 20 BY MR. KAITCER: 21 Q. That's the context, I think he is 22 publicly quoted as saying that. 23 A. Yes. 24 Q. My question is were you the 25 individual he was referring to who told him it's</p>	<p>1 A. I was the Headquarters Supervisor 2 initially assigned to the Hamas program. 3 Initially, I was focusing on the criminal 4 terrorism investigations because of my 5 background as a criminal investigator. That 6 role expanded to both criminal and intelligence 7 investigations in certain cities. That role 8 subsequently expanded to being the National 9 Program Manager for the Hamas program, which 10 made me responsible for every Hamas 11 investigation nationwide, ultimately. 12 The role of the Headquarters 13 Supervisor is that of facilitating the field -- 14 facilitating support for field investigations. 15 So my role was to assist the field offices in 16 having the tools they need to successfully 17 accomplish their investigations, whether that's 18 financial resources, travel, guidance -- overall 19 guidance in terms of investigative strategy. 20 The core is that I had a national perspective 21 versus a local perspective. 22 Q. What is the significance of having 23 a national perspective as opposed to a local 24 perspective? 25 A. Prioritization of resources,</p>

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<p>1 basically.</p> <p>2 Q. You were copied with Exhibit 11A;</p> <p>3 isn't that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you were above Special Agent</p> <p>6 Wright in the chain of command; is that correct?</p> <p>7 A. I was not in his direct chain of</p> <p>8 command, but I was a Supervisory Special Agent</p> <p>9 and he was a Special Agent, which meant I was a</p> <p>10 GS 14 and he was not, so I had a more senior</p> <p>11 position in the Bureau.</p> <p>12 Q. Okay. Who is Chris Hamilton?</p> <p>13 A. He was another Supervisory Special</p> <p>14 Agent in the Middle East Unit. And because we</p> <p>15 did not have a unit chief at the time he was</p> <p>16 acting unit chief, which meant he was in a more</p> <p>17 senior managerial role than I was in the Middle</p> <p>18 East Unit. He was the head of the Middle East</p> <p>19 Unit.</p> <p>20 Q. What is the purpose of -- I guess</p> <p>21 according to this the exhibit written Number 11A</p> <p>22 by Robert Wright was sent to you, as well; isn't</p> <p>23 that right?</p> <p>24 A. Correct.</p> <p>25 Q. It was sent to Dallas and then</p>	<p>1 A. Based on my recollection the</p> <p>2 actions that would be appropriate for myself at</p> <p>3 this time was merely to advise my chain of</p> <p>4 command of the dispute or the disagreement. My</p> <p>5 mediation function would not necessarily be</p> <p>6 required when the SACs or even ASACs were</p> <p>7 dealing directly with the situation. In this</p> <p>8 case, basically it was being resolved above my</p> <p>9 pay grade.</p> <p>10 Q. Okay. Once again, you had no</p> <p>11 personal knowledge of the events that are</p> <p>12 recited in Exhibit 11A; is that correct?</p> <p>13 MR. LATHAM: Object to form.</p> <p>14 THE WITNESS: Correct. I learned</p> <p>15 everything in this case not through being a</p> <p>16 participant, but being provided information</p> <p>17 through documents like this. I wasn't on the</p> <p>18 conference calls. I wasn't asked to facilitate</p> <p>19 the consensual monitoring.</p> <p>20 BY MR. KAITCER:</p> <p>21 Q. Based upon Exhibit Number 41,</p> <p>22 especially the last typewritten -- actually,</p> <p>23 page 3 there's a recital on page 3 that says,</p> <p>24 "however, SAC Dallas approves of the meeting,"</p> <p>25 referring to the meeting between Special Agent</p>
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<p>1 also I guess copied to you?</p> <p>2 A. Correct.</p> <p>3 Q. Why would it be copied to you?</p> <p>4 A. It's standard procedure to copy</p> <p>5 the substantive unit in Headquarters between all</p> <p>6 communications in field offices, as well as</p> <p>7 within a field office. Frankly, it allowed us</p> <p>8 to be aware of the status of investigations.</p> <p>9 Q. Would it also have allowed you, if</p> <p>10 you thought it were important enough, to take</p> <p>11 steps to correct a situation if you thought it</p> <p>12 needed correcting?</p> <p>13 A. Yes.</p> <p>14 Q. Did you take any steps to correct</p> <p>15 this situation?</p> <p>16 MR. LATHAM: Object to form.</p> <p>17 MR. KAITCER: I'll rephrase it</p> <p>18 then.</p> <p>19 BY MR. KAITCER:</p> <p>20 Q. Based upon the electronic</p> <p>21 communications, the ECs that you received that</p> <p>22 apprised you of this situation and the</p> <p>23 disagreements, if you will, between the Chicago</p> <p>24 and Dallas offices, did you feel it was</p> <p>25 necessary to undertake any steps to intercede?</p>	<p>1 Abdel-Hafiz and the a Vulgar Betrayal target,</p> <p>2 "if it is overtly recorded with the subject's</p> <p>3 agreement to the recording."</p> <p>4 Does that correctly recite what</p> <p>5 that particular statement says?</p> <p>6 A. Yes.</p> <p>7 Q. What is your understanding of</p> <p>8 what -- what is SAC Dallas? Who does that refer</p> <p>9 to?</p> <p>10 A. That's Danny Defenbaugh.</p> <p>11 Q. What was he approving?</p> <p>12 A. He was apparently attempting to</p> <p>13 offer Chicago field office cooperation to the</p> <p>14 level that he thought was appropriate, which was</p> <p>15 not a surreptitious recording, but the</p> <p>16 cooperation of Gamal if he was willing to do an</p> <p>17 overt attempt to elicit information.</p> <p>18 Q. And in this sentence it indicates</p> <p>19 that Dallas Special Agent Abdel-Hafiz will</p> <p>20 coordinate with Chicago and WMFO. What is WMFO?</p> <p>21 A. Washington Metropolitan field</p> <p>22 office.</p> <p>23 Q. Is that you?</p> <p>24 A. No.</p> <p>25 Q. That's somebody else?</p>

<p style="text-align: right;">Page 77</p> <p>1 A. Yes. That's the field office 2 located in Washington, D.C., as opposed to 3 Headquarters. 4 Q. "Will coordinate with Chicago and 5 WMFO to travel to WMFO and interview blank?" 6 A. Yes. 7 Q. What is your understanding of the 8 meaning of that sentence? 9 A. Similar to the previous sentence 10 that says it basically directs Gamal to 11 cooperate in an overt way. And it says that the 12 SAC is approving Gamal to leave his field office 13 and go to the location where this target is and 14 conduct an overt interview if that would assist 15 the Vulgar Betrayal investigation. 16 Q. Did Chicago take him upon that 17 offer? 18 A. I don't believe so. 19 Q. Special Agent Resnick, did you 20 have any problems with Special Agent Gamal 21 Abdel-Hafiz in him carrying out his duties for 22 the FBI that had any connection to you? 23 MR. LATHAM: Object to form. 24 MR. KAITCER: I can rephrase that. 25 BY MR. KAITCER:</p>	<p style="text-align: right;">Page 79</p> <p>1 lawsuit, but there is no inappropriate behavior 2 that Gamal demonstrated in the course of doing 3 his job. Whether he considers his religious 4 beliefs higher on the hierarchy than his job is 5 a personal question that only he can answer. 6 Q. But did you have any question -- 7 did you have -- based upon his actions did you 8 have any cause to question his loyalty to this 9 country? 10 MR. LATHAM: Object to form. 11 THE WITNESS: No. Not his 12 loyalty. 13 BY MR. KAITCER: 14 Q. Did you have any cause to question 15 his -- I'm not sure how you would phrase it -- 16 his allegiance to the Federal Bureau of 17 Investigation? 18 A. There was a discussion that we had 19 as to whether his -- whether the prioritization 20 in this case was appropriate or not. 21 Q. You had that discussion with him? 22 A. No. I think I had that discussion 23 with my supervisor. 24 Q. Okay. Not with Gamal? 25 A. No. I don't believe so. You</p>
<p style="text-align: right;">Page 78</p> <p>1 Q. What connection did Special Agent 2 Abdel-Hafiz have to you? 3 A. He was an agent assigned to the 4 International Terrorism Squad in the Dallas 5 field office that was under my Headquarters 6 management. 7 Q. Did you have any problems in the 8 performance of his duties while he was 9 fulfilling that role? 10 A. No. 11 Q. Did you have any question related 12 to his loyalty to this country or his devotion 13 to duty on behalf of the FBI? 14 A. No. 15 Q. Did you have any indication that 16 he placed his religion above his duties to this 17 country and to the FBI in performing his duties? 18 A. Repeat the question. 19 Q. Did you have any indication from 20 Special Agent Abdel-Hafiz that he placed his 21 religion above his obligations to this country 22 or to the FBI? 23 A. That's a personal question. 24 Gamal's religious beliefs and his duty as an FBI 25 agent apparently are intertwined in this</p>	<p style="text-align: right;">Page 80</p> <p>1 know, I don't have the specific recollection of 2 the meeting I had with Gamal, so I don't 3 remember if it was discussed. I remember 4 briefing my boss as to the facts that are in 5 front of us, and I think there was a dialogue 6 within the Middle East Unit was this appropriate 7 or wasn't it appropriate. 8 Q. Okay. But you didn't -- when 9 Special Agent Abdel-Hafiz was working in 10 connection with what you were doing, did you 11 learn anything from him personally or in 12 observing the performance of his duties as an 13 FBI Special Agent that would cause you to have 14 concern about his performance of those duties? 15 A. No. 16 Q. You mentioned that you had 17 discussions with, I think, your supervisor? 18 A. Yes. 19 Q. Were those discussions brought 20 about by the EC that's been marked as 21 Exhibit 11A. 22 A. I don't have a specific 23 recollection as to which EC triggered the 24 discussion. Clearly, Chris Hamilton was on all 25 of -- all of these ECs that you've provided as</p>

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<p>1 exhibits.</p> <p>2 Q. Okay. So the issue of Gamal's</p> <p>3 role or the role of religion and Gamal's duties</p> <p>4 could have been raised by the EC drafted by</p> <p>5 Robert Wright?</p> <p>6 A. It could have been, yes.</p> <p>7 Q. You mentioned earlier that Special</p> <p>8 Agent Wright was rather aggressive?</p> <p>9 A. Yes.</p> <p>10 Q. What did you mean by that?</p> <p>11 A. He had a competitiveness in his</p> <p>12 investigative process that led him to want to</p> <p>13 succeed very strongly.</p> <p>14 Q. Was this more so than other</p> <p>15 special agents?</p> <p>16 A. I think there's a certain segment</p> <p>17 of the agent population that's more aggressive</p> <p>18 than others. I think he is one of the more</p> <p>19 aggressive agents I've ever met.</p> <p>20 Q. Okay. Did Bob Wright ever</p> <p>21 approach you for authorization to open a</p> <p>22 criminal investigation that he thought might</p> <p>23 lead to a link with Osama bin Laden?</p> <p>24 A. No.</p> <p>25 Q. Did Bob Wright -- was Bob Wright</p>	<p>1 periphery.</p> <p>2 Q. Did he ever ask you for</p> <p>3 authorization to open a criminal investigation</p> <p>4 with respect to Osama bin Laden?</p> <p>5 MR. LATHAM: Object to form.</p> <p>6 THE WITNESS: No. And</p> <p>7 procedurally he wouldn't have asked me. The</p> <p>8 field supervisor would have been the supervisor</p> <p>9 who would have the authority to open up a case.</p> <p>10 BY MR. KAITCER:</p> <p>11 Q. Who was the field supervisor?</p> <p>12 A. That was Tim Gossfeld.</p> <p>13 Q. Okay. Are you aware that Special</p> <p>14 Agent Gossfeld's deposition has been taken in</p> <p>15 this case?</p> <p>16 A. I think it was mentioned in prior.</p> <p>17 Q. On page 30, line 2, I asked him if</p> <p>18 he had any problem with the fact that the Dallas</p> <p>19 office vetoed Mr. Wright's request. And his</p> <p>20 response was no, sir, he didn't have a problem.</p> <p>21 A. I'm sorry. Say that once more.</p> <p>22 Q. I asked Mr. Gossfeld when I took</p> <p>23 his deposition on February 15th, 2006 if he had</p> <p>24 any problem with the fact that the Dallas office</p> <p>25 vetoed Mr. Wright's request about the consensual</p>
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<p>1 conducting a criminal investigation in 1999?</p> <p>2 A. Vulgar Betrayal.</p> <p>3 Q. But that had nothing to do with</p> <p>4 Osama bin Laden?</p> <p>5 MR. LATHAM: Object to form.</p> <p>6 MR. KAITCER: I'll rephrase it.</p> <p>7 BY MR. KAITCER:</p> <p>8 Q. Did that have anything to do with</p> <p>9 Osama bin Laden?</p> <p>10 A. Tangentially.</p> <p>11 Q. How tangentially?</p> <p>12 MR. BENSON: I'm going to object</p> <p>13 to any further questions into the inner workings</p> <p>14 of the investigation and instruct the witness</p> <p>15 not to answer.</p> <p>16 BY MR. KAITCER:</p> <p>17 Q. Let me say when you use the word,</p> <p>18 tangentially, when I say it that usually means</p> <p>19 not very much.</p> <p>20 MR. LATHAM: Object to form.</p> <p>21 THE WITNESS: Do you want me to</p> <p>22 tell you how I define tangentially?</p> <p>23 BY MR. KAITCER:</p> <p>24 Q. Yes.</p> <p>25 A. Minimally, slightly at the</p>	<p>1 monitoring, and he said no. Does that comport</p> <p>2 with your recollection?</p> <p>3 MR. LATHAM: Object to form.</p> <p>4 THE WITNESS: It is inconsistent</p> <p>5 with my memory.</p> <p>6 BY MR. KAITCER:</p> <p>7 Q. Okay. What do you recall Agent</p> <p>8 Gossfeld's position was?</p> <p>9 A. Agent Gossfeld was generally</p> <p>10 considered an advocate for Agent Wright, and</p> <p>11 Agent Wright felt very strongly that he wanted</p> <p>12 this consensual monitoring to occur. I recall</p> <p>13 Tim Gossfeld supporting that position.</p> <p>14 Q. Okay.</p> <p>15 A. And, in fact, the communications</p> <p>16 between Chicago and Dallas could not have been</p> <p>17 written but for Tim Gossfeld approving them.</p> <p>18 One of the functions of a supervisor is to</p> <p>19 determine what is and what is not appropriate,</p> <p>20 and to provide a level of supervision to his</p> <p>21 agents to ensure that offices communicate well</p> <p>22 and maintain a strong relationship. It's that</p> <p>23 of a diplomat, as well as a mentor.</p> <p>24 Q. Okay. And do you have any</p> <p>25 personal knowledge of the communication between</p>

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<p>1 Special Agent Gossfeld and the Dallas office?</p> <p>2 MR. LATHAM: Object to form.</p> <p>3 BY MR. KAITCER:</p> <p>4 Q. You can answer the question.</p> <p>5 A. I'm aware that Tim Gossfeld and</p> <p>6 Tino Martinez -- Tino Perez, I'm sorry, spoke</p> <p>7 frequently. Whether they spoke regarding this</p> <p>8 topic, I don't have any firsthand knowledge.</p> <p>9 Q. Okay.</p> <p>10 A. And just to clarify, I'm not sure</p> <p>11 when Patton left and Perez came on. I don't</p> <p>12 exactly know when that transition happened, but</p> <p>13 as I said, in my dealings with Dallas it was --</p> <p>14 I don't recall dealing with Patton, at all, so I</p> <p>15 suspect right around this period there was a</p> <p>16 transition.</p> <p>17 MR. KAITCER: Thank you. I have</p> <p>18 no further questions at this time.</p> <p>19</p> <p>20 EXAMINATION BY COUNSEL FOR DEFENDANTS</p> <p>21</p> <p>22 BY MR. LATHAM:</p> <p>23 Q. Mr. Resnick, I just have a few</p> <p>24 follow-ups to what Mr. Kaitcer asked you.</p> <p>25 I think you got around to this,</p>	<p>1 question and instruct the witness not to answer</p> <p>2 the question.</p> <p>3 MR. KAITCER: You're right. He's</p> <p>4 awake, Bob.</p> <p>5 BY MR. LATHAM:</p> <p>6 Q. Is it your understanding that</p> <p>7 Danny Defenbaugh was not on the call where</p> <p>8 Special Agent Abdel-Hafiz was asked to</p> <p>9 surreptitiously monitor a target; correct?</p> <p>10 A. There is no indication in these</p> <p>11 documents, and it is highly unlikely the SAC</p> <p>12 would be involved at that level.</p> <p>13 Q. If resistance was -- if there was</p> <p>14 resistance to the recording of that telephone</p> <p>15 call, could it have come from Mr. Defenbaugh if</p> <p>16 he wasn't on the call?</p> <p>17 MR. KAITCER: Objection, form.</p> <p>18 THE WITNESS: Probably not. It</p> <p>19 would most likely have come from either Gamal or</p> <p>20 his supervisor.</p> <p>21 BY MR. LATHAM:</p> <p>22 Q. You talked about the chain of</p> <p>23 command with regard to ordering an agent to</p> <p>24 perform a function. Would Ron Patton have had</p> <p>25 the authority to order Gamal Abdel-Hafiz to</p>
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<p>1 but just so the record is clear, he asked you</p> <p>2 several times when you authorized Bob Wright to</p> <p>3 open or conduct criminal investigations. Would</p> <p>4 you be the one to authorize Bob Wright to open</p> <p>5 or conduct a criminal investigation?</p> <p>6 A. No. Let me just clarify. There</p> <p>7 is a certain Headquarters function that has</p> <p>8 changed periodically over time where</p> <p>9 Headquarters currently has to approve the</p> <p>10 opening of a case after a supervisor -- after a</p> <p>11 field supervisor has. So I don't specifically</p> <p>12 recall whether at this point in time</p> <p>13 Headquarters had any veto power, in essence,</p> <p>14 over the opening of a case by a field office.</p> <p>15 They currently do, in essence, but the process</p> <p>16 in which an agent opens up a case is by going to</p> <p>17 his direct supervisor.</p> <p>18 Q. Not to you?</p> <p>19 A. Not to us.</p> <p>20 Q. I just want to wake Mr. Benson up</p> <p>21 for a moment here. I need to ask you this.</p> <p>22 Who was it that Special Agent</p> <p>23 Gamal Abdel-Hafiz was asked to surreptitiously</p> <p>24 record?</p> <p>25 MR. BENSON: I will object to the</p>	<p>1 perform a duty?</p> <p>2 A. Yes.</p> <p>3 Q. Mr. Kaitcer asked you about</p> <p>4 Mr. Defenbaugh's reputation. Did Mr. Defenbaugh</p> <p>5 leave the Bureau in good graces?</p> <p>6 A. I don't have any firsthand</p> <p>7 knowledge.</p> <p>8 Q. Was there any controversy</p> <p>9 surrounding his departure from the FBI?</p> <p>10 A. I believe there was.</p> <p>11 Q. Do you know what it related to?</p> <p>12 A. Vague recollection, but I'm not</p> <p>13 certain.</p> <p>14 Q. Mr. Kaitcer asked you if</p> <p>15 Mr. Abdel-Hafiz had worked with other field</p> <p>16 offices, and I believe you answered that your</p> <p>17 recollection was that he had.</p> <p>18 Do you know if he ever refused to</p> <p>19 work with other field offices other than what's</p> <p>20 being alleged with regard to the Chicago issue?</p> <p>21 A. Can I talk to my counsel, please?</p> <p>22 MR. LATHAM: Sure.</p> <p>23 (The witness confers with counsel</p> <p>24 off the record.)</p> <p>25 MR. BENSON: Could you read that</p>

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<p>1 question back, please?</p> <p>2 (The record was read as</p> <p>3 requested.)</p> <p>4 MR. BENSON: I will object to the</p> <p>5 question. It exceeds the scope of the December</p> <p>6 30th letter. And I'll instruct the witness not</p> <p>7 to answer the question.</p> <p>8 MR. LATHAM: He already answered</p> <p>9 the question on the positive side of that. I'm</p> <p>10 not entitled to go into it on the other side?</p> <p>11 MR. KAITCER: Your objection is</p> <p>12 sustained. Move on.</p> <p>13 MR. BENSON: Obviously, because</p> <p>14 the witness had to basically ask me if this was</p> <p>15 a problem area, I wasn't picking up on that fact</p> <p>16 and missed the objection when it was made,</p> <p>17 missed making the objection when the question</p> <p>18 was asked by Mr. Kaitcer, and I'm going to stand</p> <p>19 by the objection. I understand the apparent</p> <p>20 unfairness of that, but my role here today is</p> <p>21 not to be fair or unfair to any party in this</p> <p>22 suit, but to protect the FBI's information and</p> <p>23 their interest.</p> <p>24 MR. LATHAM: My role isn't to</p> <p>25 argue with you. I was just challenging you.</p>	<p>1 ever received any indication from others that</p> <p>2 Mr. Abdel-Hafiz placed his religion above his</p> <p>3 duties to the FBI?</p> <p>4 A. Aside from the individuals in the</p> <p>5 Chicago field office?</p> <p>6 Q. No, including those individuals?</p> <p>7 A. Yes.</p> <p>8 Q. Who were those individuals that</p> <p>9 indicated he placed his religion above his</p> <p>10 duties to the FBI?</p> <p>11 A. Whether it was directly or</p> <p>12 indirectly, it was Bob Wright. I don't recall</p> <p>13 whether it was through direct discussion with</p> <p>14 him or through Tim Gossfeld.</p> <p>15 Q. Any others that may have been on</p> <p>16 the call?</p> <p>17 A. Not that I recall.</p> <p>18 Q. When you mentioned you spoke to</p> <p>19 your supervisor about that issue whether</p> <p>20 Mr. Abdel-Hafiz placed his religion above his</p> <p>21 duties to the FBI, were you referring to Chris</p> <p>22 Hamilton?</p> <p>23 A. Yes.</p> <p>24 Q. Was that a concern of</p> <p>25 Mr. Hamilton, that Mr. Abdel-Hafiz may be</p>
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<p>1 MR. BENSON: I understand.</p> <p>2 BY MR. LATHAM:</p> <p>3 Q. Mr. Resnick, in response to</p> <p>4 Mr. Kaitcer's questions he directed you to</p> <p>5 Exhibit 41 and you answered some questions about</p> <p>6 Mr. Abdel-Hafiz said that he would travel to</p> <p>7 Washington Metropolitan field office to</p> <p>8 interview the target. Did Chicago -- and do it</p> <p>9 in an overt way. Did Chicago want him to do</p> <p>10 that?</p> <p>11 A. No.</p> <p>12 Q. Why not?</p> <p>13 A. I believe they felt it would give</p> <p>14 him an opportunity to make self-serving</p> <p>15 statements and it would ultimately hurt the</p> <p>16 investigation.</p> <p>17 MR. KAITCER: Can we get a</p> <p>18 clarification of who would make the self-serving</p> <p>19 statements?</p> <p>20 THE WITNESS: The target.</p> <p>21 BY MR. LATHAM:</p> <p>22 Q. Mr. Kaitcer asked you if you ever</p> <p>23 had any indication from Mr. Abdel-Hafiz that he</p> <p>24 placed his religion above his duties to the FBI.</p> <p>25 My question to you is have you</p>	<p>1 placing his religion above his duties to the</p> <p>2 FBI?</p> <p>3 A. I believe it was a discussion that</p> <p>4 involved two field offices that were having a</p> <p>5 dispute, and ultimately a discussion of the</p> <p>6 consequences of that for the program and for the</p> <p>7 case.</p> <p>8 Q. And was one of the issues that you</p> <p>9 understood to be at the center of that dispute</p> <p>10 the issue of whether or not Mr. Abdel-Hafiz</p> <p>11 placed his religion above his duties to the FBI?</p> <p>12 A. Clearly that was the allegation of</p> <p>13 Bob Wright. Whether, in fact, that was a fact</p> <p>14 considered by Gamal or not was a separate issue.</p> <p>15 There was an appearance from the Chicago field</p> <p>16 office, there were allegations that that -- that</p> <p>17 his religion was somehow getting in the way of</p> <p>18 his doing his official duties and that was a</p> <p>19 negative for the Bureau, for the investigation,</p> <p>20 and what the consequences were for that action.</p> <p>21 MR. LATHAM: I'll pass the witness</p> <p>22 and thank you again, and hopefully Mr. Kaitcer</p> <p>23 can bring us in in one tape.</p> <p>24</p> <p>25 EXAMINATION BY COUNSEL FOR PLAINTIFF</p>

<p style="text-align: right;">Page 93</p> <p>1 2 BY MR. KAITCER: 3 Q. You're aware that John Vincent is 4 no longer with the Bureau? 5 A. I believe I am. 6 Q. Was there any controversy 7 surrounding John Vincent's leaving the Bureau? 8 A. Not that I recall. 9 MR. KAITCER: No further 10 questions. 11 MR. LATHAM: Thank you. 12 MR. BENSON: Before we go off the 13 record, I was advised yesterday during the 14 course of the deposition by Mr. Babcock that 15 under the Texas Rules of Civil Procedure there 16 is, in fact, an attorney has the ability to ask 17 that an answer be struck if a privilege response 18 was given inadvertently. And under those 19 procedures I would ask that the response that 20 the witness gave to the question concerning 21 whether or not Mr. Abdel-Hafiz was ever involved 22 in investigations involving other offices of the 23 FBI, I would ask that that be struck as 24 privileged. 25 MR. LATHAM: That's fine with me.</p>	<p style="text-align: right;">Page 95</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 3 I do hereby acknowledge that I have 4 read and examined the foregoing pages of the 5 transcript of my deposition and that: 6 7 (Check appropriate box): 8 () the same is a true, correct and 9 complete transcription of the answers given by 10 me to the questions therein recorded. 11 12 () except for the changes noted in 13 the attached errata sheet, the same is a true, 14 correct and complete transcription of the 15 answers given by me to the questions therein 16 recorded. 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">_____ DATE SIGNATURE</p>
<p style="text-align: right;">Page 94</p> <p>1 MR. KAITCER: That's probably not 2 a problem. 3 MR. BENSON: Obviously, and I'll 4 put this on the record, obviously a lame attempt 5 on my part to even the playing field with one 6 missed objection. 7 MR. KAITCER: I think the dynamics 8 will work. We'll get together and decide what 9 we show the jury and what we don't. I don't 10 know whether Special Agent Resnick's answer is 11 going to be. 12 THE VIDEOGRAPHER: This marks the 13 end of the deposition of Mr. Resnick. The total 14 number of tapes used today is one. We are going 15 off the record. The time is 12:22 p.m. 16 (Reading and signature not 17 waived.) 18 (Whereupon, at 12:22 p.m., the 19 deposition was concluded.) 20 - - - - - 21 22 23 24 25</p>	<p style="text-align: right;">Page 96</p> <p>1 CERTIFICATE OF NOTARY PUBLIC 2 I, Paula G. Satkin, the officer before whom 3 the foregoing proceedings were taken, do hereby 4 certify that the witness whose testimony appears 5 in the foregoing proceeding was duly sworn by 6 me; that the testimony of said witness was taken 7 by me in stenotype and thereafter reduced to 8 typewriting under my direction; that said 9 proceedings is a true record of the testimony 10 given by said witness; that I am neither counsel 11 for, related to, nor employed by any of the 12 parties to the action in which these proceedings 13 were taken; and, further, that I am not a 14 relative or employee of any attorney or counsel 15 employed by the parties hereto, nor financially 16 or otherwise interested in the outcome of the 17 action. 18 My commission expires August 31, 2010. 19 20 21 22 23 24 25</p> <p style="text-align: center;">_____ PAULA G. SATKIN Notary Public in and for the District of Columbia</p>