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1 THE COURT: ALL RIGHT, YOU CAN STEP DOWN AND BE
2 EXCUSED, IF YOU WOULD LIKE.

3 (WITNESS EXCUSED FROM THE STAND)

4 MR. MOYE: YOUR HONOR, WITH THE COURT'S PERMISSION
5 AND PERMISSION OF COUNSEL, I WOULD TENDER GOVERNMENT'S 110-A.

6 THE COURT: ANY OBJECTION TO THE SETTLEMENT
7 STATEMENT?

8 MR. ROSEN: NO.

9 MR. ABBOTT: NO.

10 MR. AXAM: NO.

11 THE COURT: LET IT IN.

12 MR. MOYE: THEN WITH THE COURT'S PERMISSION, I WOULD
13 ASK TO RELEASE GOVERNMENT'S 110, THE ORIGINAL FILE, BACK TO
14 MCCURDY AND CANDLER.

15 THE COURT: ALL RIGHT.

16 MR. MOYE: CALL MR. ANDREW WOLF.

17 THE CLERK: PLEASE, RAISE YOUR RIGHT HAND.

18 DO YOU SOLEMNLY SWEAR THAT THE EVIDENCE YOU SHALL
19 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT TO BE THE
20 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU
21 GOD?

22 THE WITNESS: I DO.

23 THE CLERK: BE SEATED PLEASE. STATE YOUR NAME FOR
24 THE RECORD.

25 THE WITNESS: ANDREW WOLF.

1

ANDREW WOLF

2

BEING DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

3

DIRECT EXAMINATION

4

BY MR. MOYE:

5

Q MR. WOLF, ARE YOU A PRACTICING ATTORNEY?

6

A YES, SIR.

7

Q HOW LONG HAVE YOU BEEN PRACTICING?

8

A SEVEN YEARS.

9

Q IN THAT SEVEN YEARS, HAVE YOU PRACTICED ANY PARTICULAR

10

SPECIAL KIND OF LAW?

11

A REAL ESTATE.

12

Q HAVE YOU IN THAT SEVEN YEARS DONE A NUMBER OF REAL ESTATE

13

CLOSINGS?

14

A A NUMBER OF THEM, YES.

15

Q DO YOU HAVE ANY IDEA HOW MANY?

16

A PROBABLY 500.

17

Q IN THAT -- IN THE PERIOD OF TIME, MR. WOLF, 1990, HOW WERE

18

YOU PRACTICING, WHERE WAS YOUR PRACTICE LOCATED?

19

A I WAS ASSOCIATE WITH THE FIRM OF FISHMAN AND WOLF.

20

Q AND SINCE THAT TIME HAS THAT FIRM DISSOLVED?

21

A YES.

22

Q ARE YOU NOW PRACTICING ELSEWHERE?

23

A YES, I HAVE MY OWN PRACTICE.

24

Q LET ME HAND YOU GOVERNMENT EXHIBIT NO. 129 AND ASK YOU,

25

SIR, IF YOU RECOGNIZE THAT FILE?

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- 1 A I RECOGNIZE IT.
- 2 Q AND THE FILE RELATES TO WHAT, IF YOU CAN TELL US?
- 3 A IT WAS A REAL ESTATE CLOSING BETWEEN THE SELLER, MONTE
4 SHARP AND THE PURCHASER, VIRGINIA HIGH.
- 5 Q AND THE PIECE OF PROPERTY TO WHICH THE CLOSING TOOK --
6 WHICH IT RELATED TO, WHAT WAS THE PROPERTY?
- 7 A IT WAS A CONDOMINIUM CALLED -- IT WAS UNIT 905 AT THE
8 CONDO BRADFORD ON PEACHTREE.
- 9 Q DID YOU HANDLE THE CLOSING?
- 10 A YES, I DID.
- 11 Q WHEN YOU HANDLED THE CLOSING, WHERE WAS THE CLOSING, WHERE
12 DID IT TAKE PLACE?
- 13 A IT WAS IN OUR OFFICES IN THE GALLERIA, AN OFFICE BUILDING.
- 14 Q CAN YOU TELL US THE DATE ON WHICH THE CLOSING TOOK PLACE?
- 15 A OCTOBER 5TH, 1990.
- 16 Q CAN YOU TELL US WHO WAS PRESENT?
- 17 A AT THE CLOSING IT WAS MYSELF, MY SECRETARY, MS. HIGH AND
18 ANOTHER GENTLEMAN.
- 19 Q THE OTHER GENTLEMAN, WHO WAS THAT?
- 20 A I BELIEVE IT WAS MR. HIGH.
- 21 Q HOW ABOUT THE SELLER?
- 22 A HE CAME IN EARLIER IN THE DAY AND SIGNED THE DOCUMENTS
23 THAT HE -- HE WASN'T AT THE CLOSING WITH THE HIGHS.
- 24 Q DO YOU HAVE IN THE FILE GOVERNMENT'S 129, THE SETTLEMENT
25 STATEMENT OR CLOSING STATEMENT?

1 A YES, I DO.

2 Q I HAND YOU, MR. WOLF, WHAT IS MARKED GOVERNMENT EXHIBIT
3 129-A AND ASK YOU, SIR, TO IDENTIFY THE DOCUMENT FOR THE
4 RECORD?

5 A IT IS THE SETTLEMENT STATEMENT THAT WAS SIGNED ON OCTOBER
6 5TH.

7 Q IS THAT AN ORIGINAL SETTLEMENT STATEMENT THAT BEARS
8 ORIGINAL SIGNATURES?

9 A YES, IT IS.

10 MR. MOYE: I TENDER GOVERNMENT'S 129-A, YOUR HONOR.

11 THE COURT: ANYBODY OBJECT?

12 MR. ROSEN: NO OBJECTION.

13 MR. ABBOTT: NO.

14 THE COURT: IT MAY COME IN.

15 BY MR. MOYE:

16 Q MR. WOLF, WOULD YOU TELL US WHAT THE CONTRACT SALES PRICE
17 WAS?

18 A ONE HUNDRED AND FIVE THOUSAND.

19 Q CAN YOU TELL US WHETHER OR NOT THERE WAS ANY FINANCING
20 INVOLVED?

21 A YES, THERE WAS AN EXISTING LOAN THAT THEY WERE TAKING --
22 THEY WERE ASSUMING.

23 Q AND HOW MUCH WAS THE LOAN?

24 A EIGHTY-EIGHT THOUSAND EIGHTY DOLLARS AND NINETY CENTS.

25 Q CAN YOU TELL US, MR. WOLF, WHAT THE -- THE FUNDS DUE AT

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1 CLOSING FROM THE BORROWER OR PURCHASER?

2 A THEY OWED AT CLOSING \$22,042.87.

3 Q MR. WOLF, WHO WAS YOUR CLIENT AT THIS CLOSING?

4 A THE SELLER MONTE SHARP.

5 Q DID YOU RECEIVE FUNDS THAT WERE SUFFICIENT TO MAKE ALL THE
6 DISBURSEMENTS ON THE SETTLEMENT STATEMENT?

7 A YES.

8 Q CAN YOU TELL US HOW YOU RECEIVED THE FUNDS?

9 A AT FIRST, THE FUNDS, THE -- MS. HIGH TENDERED TO US CASH.

10 Q TELL US HOW MRS. HIGH TENDERED TO YOU CASH?

11 A SHE HAD IT IN A BAG AND SHE -- AFTER WE SIGNED UP ALL THE
12 DOCUMENTS, THE PROCEDURE, AT LEAST HOW WE DO THE PROCEDURE, IS
13 WE SIGN UP THE DOCUMENTS; OKAY? NOW IT IS TIME TO TENDER THE
14 CASH SO WE CAN DISBURSE THE MONEY TO THE SELLER OR WHOEVER
15 NEEDED TO GET PAID, ASKED FOR THE MONEY AND LITERALLY THEY
16 BROUGHT CASH.

17 Q YOU SAID IN A BROWN PAPER BAG?

18 A I BELIEVE SO, YEAH.

19 Q WHAT DID YOU DO WHEN YOU WERE TENDERED -- WAS IT
20 \$22,042.87?

21 A I DID NOT COUNT THE CASH BUT THEY SAID THAT THAT IS HOW
22 MUCH IT WAS.

23 Q WHEN YOU WERE TENDERED THIS CASH, WHAT DID YOU DO?

24 A I TOLD THEM THAT FOR OUR CLOSING PURPOSES WE COULDN'T
25 ACCEPT THE CASH, THAT I NEEDED CERTIFIED FUNDS, YOU KNOW,

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1 PREFERRED CERTIFIED FUNDS. AND WE ASKED THAT WE SORT OF HOLD
2 THE DOCUMENTS FOR THE TIME BEING SO THEY COULD GO OUT DURING
3 THE NEXT COUPLE OF HOURS. WE SAID WE WOULD MEET IN A COUPLE OF
4 HOURS BACK HERE SO YOU CAN GO AHEAD AND GET A CERTIFIED CHECK
5 FOR THE SAME AMOUNT.

6 Q AND WHAT TIME WAS IT THAT YOU ALL ADJOURNED THE CLOSING?

7 A IT WAS LATE MORNING. IT WAS LIKE, SAY, 11:00, 11:30. I
8 SAID WHY, YOU KNOW, DON'T WE GO BREAK FOR LUNCH, GO AHEAD AND
9 GET THE MONEY, GET THE CERTIFIED CHECKS, AND THEN WE WILL MEET,
10 LET'S SAY 1:00, 1:30 OR WHATEVER, AND WE'LL FINISH UP THE
11 CLOSING AT THAT TIME.

12 Q WHAT TIME, AT ANY POINT DURING THAT DAY DURING OCTOBER
13 5TH, 1990, DID YOU ALL GET BACK TOGETHER?

14 A WE GOT BACK TOGETHER A LITTLE LATER IN THE AFTERNOON. AND
15 AT THAT TIME THEY GAVE ME \$22,042.87 IN A DIFFERENT MANNER.

16 Q HOW DID THEY GIVE IT TO YOU AT THAT POINT?

17 A IT WAS -- THERE WAS ONE FIRST ATLANTA CERTIFIED CHECK OR
18 BANK CHECK FOR 5,500. ANOTHER FIRST ATLANTA BANK CHECK FOR
19 5,000. THERE WAS A TRUST COMPANY TREASURER'S CHECK FOR 5,500.
20 THERE WAS -- THERE WERE EIGHT, \$700 MONEY ORDERS, EIGHT
21 DIFFERENT \$700 MONEY ORDERS. THERE WERE TWO, \$200 MONEY
22 ORDERS, AND I TOOK A PERSONAL CHECK FOR \$42.87.

23 Q DID YOU DEPOSIT THOSE CHECKS AND MONEY ORDERS AND MAKE
24 DISBURSEMENTS IN ACCORDANCE WITH THE SETTLEMENT STATEMENT?

25 A CORRECT.

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1 Q AND DO YOU SEE IN THE COURTROOM EITHER OF THOSE TWO
2 INDIVIDUALS THAT WERE INVOLVED IN THAT TRANSACTION?

3 A YEAH.

4 Q WOULD YOU IDENTIFY THEM FOR THE RECORD, PLEASE?

5 A MS. HIGH.

6 Q ANYONE ELSE?

7 A AND MR. HIGH.

8 Q YOU POINTED TO YOUR RIGHT. WHERE IS MR. HIGH SEATED?

9 A I BELIEVE THAT IS HIM ON THE FAR RIGHT.

10 Q AND WHAT IS HE WEARING?

11 A DARK SUIT, DARK TIE, DARK BLUE TIE.

12 MR. MOYE: YOUR HONOR, MAY THE RECORD REFLECT THE
13 WITNESS HAS IDENTIFIED THE DEFENDANT GEORGE HIGH?

14 THE COURT: ALL RIGHT.

15 Q AND MRS. HIGH IS SEATED AT WHICH TABLE?

16 A BACK MIDDLE.

17 MR. MOYE: YOUR HONOR, MAY THE RECORD REFLECT THE
18 WITNESS HAS IDENTIFIED THE DEFENDANT VIRGINIA HIGH?

19 THE COURT: ALL RIGHT.

20 Q MR. WOLF, OF ALL THE REAL ESTATE TRANSACTIONS THAT YOU
21 HAVE HANDLED, WHY IS IT THAT YOU REMEMBER THIS ONE IN
22 PARTICULAR?

23 A I HAVE NEVER SEEN ANYBODY COME UP WITH CASH LIKE THAT AT
24 CLOSING.

25 Q HAVE YOU EVER HAD IN YOUR EXPERIENCE ANYONE TENDER TO YOU,

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1 AFTER TENDERING YOU CASH, THIS COMBINATION OF INSTRUMENTS?

2 A NO. YOU KNOW, GENERALLY, IT IS A CERTIFIED CHECK FOR THE
3 MAJORITY OF THE AMOUNT. AND THEN, AGAIN, WE WILL TAKE A
4 PERSONAL CHECK FOR, YOU KNOW, SMALL FUNDS LIKE \$42.87. BUT
5 GENERALLY THAT IS AS LARGE AMOUNTS OF DIFFERENT PIECES OF PAPER
6 AS IT GETS.

7 MR. MOYE: THANK YOU, SIR.

8 MR. MOYE: MAY I HAVE JUST A MOMENT, YOUR HONOR?

9 THE COURT: ALL RIGHT.

10 MR. MOYE: THANK YOU, MR. WOLF.

11 THE COURT: MR. MORRISON.

12 CROSS-EXAMINATION

13 BY MR. MORRISON:

14 Q MR. WOLF, MY NAME IS BILL MORRISON AND I REPRESENT THE
15 PERSON YOU IDENTIFIED AS GEORGE HIGH.

16 YOU SAY HE WAS PRESENT AT THE CLOSING?

17 A I BELIEVE SO. HE MIGHT NOT HAVE BEEN AT BOTH PARTS. I
18 DON'T REMEMBER EXACTLY. HE MIGHT HAVE BEEN EITHER AT THE
19 BEGINNING PART BEFORE WE BROKE TO LUNCH AND GO GET THE MONEY OR
20 CAME AFTERWARDS. HE WAS AT ONE OF THE HALVES.

21 Q DID HE TAKE PART IN THE TRANSACTION IN ANY WAY?

22 A I DON'T BELIEVE SO.

23 Q AND WHEN MRS. HIGH GAVE YOU THE \$22,000 OR PRESENTED THAT,
24 YOU INSTRUCTED HER THAT YOU WOULD NOT ACCEPT THAT?

25 A RIGHT.

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1 Q WAS THAT YOUR FIRM POLICY AT THAT TIME NOT TO TAKE CASH
2 FOR CLOSINGS?

3 A IT NEVER HAPPENED BEFORE SO I DON'T THINK WE ACTUALLY HAD
4 A POLICY. I JUST DID NOT FEEL COMFORTABLE WITH IT AND I WANTED
5 SOMETHING WHERE I HAD A PAPER TRAIL, SO TO SPEAK.

6 Q DID YOU HAVE A REAL ESTATE ESCROW ACCOUNT AT THAT TIME?

7 A YEAH.

8 Q AND YOU COULD HAVE TAKEN THE CASH AND DEPOSITED IT IN YOUR
9 ESCROW ACCOUNT, COULD YOU NOT HAVE?

10 A AGAIN, IT WAS NOT THE WAY I DO CLOSINGS.

11 Q BUT YOU COULD HAVE DONE THAT HAD YOU WANTED TO?

12 A HAD I WANTED TO?

13 Q RIGHT.

14 A I GUESS SO, SURE.

15 Q AND THERE WOULDN'T HAVE BEEN ANYTHING ILLEGAL ABOUT DOING
16 IT THAT WAY?

17 A I DON'T KNOW. I'M NOT FAMILIAR WITH WHETHER IT WOULD HAVE
18 OR NOT.

19 Q YOU INSTRUCTED MS. HIGH TO GO OUT THERE AND OBTAINED
20 CERTIFIED FUNDS?

21 A UH-HUH.

22 MR. MORRISON: THAT IS ALL I HAVE, THANK YOU.

23 THE COURT: MR. ABBOTT?

24

25

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1 CROSS-EXAMINATION

2 BY MR. ABBOTT:

3 Q VERY BRIEFLY, MR. WOLF, MY NAME IS MICHAEL ABBOTT. I
4 REPRESENT VIRGINIA HIGH AND WE MET VERY BRIEFLY RIGHT OUTSIDE
5 THE COURTROOM DOOR, DID WE NOT?

6 A SURE.

7 Q AND YOU VERY GRACIOUSLY TALKED TO ME FOR A FEW MINUTES,
8 DID YOU NOT?

9 A RIGHT.

10 Q AND YOU, I TAKE IT, BASICALLY YOUR PRACTICE IS REAL ESTATE
11 CLOSINGS OR REAL ESTATE LAW; IS THAT CORRECT?

12 A CORRECT, PRIMARILY.

13 Q AND IT WOULD BE FAIR TO SAY THAT YOU ARE ESSENTIALLY A
14 SPECIALIST IN THAT AREA?

15 A I HOPE SO.

16 Q OKAY. NOW, ONCE MS. HIGH TENDERED THE CASH TO YOU AND YOU
17 SAID NO, I DON'T WANT TO TAKE THAT, I NEED CERTIFIED FUNDS, AND
18 THEN SHE LATER CAME BACK AND PRODUCED A CERTAIN AMOUNT OF
19 CHECKS FOR YOU ACCORDING TO YOUR TESTIMONY. IS THAT RIGHT?

20 A THAT'S RIGHT.

21 Q NOW, YOU DON'T KNOW ACTUALLY WHO PURCHASED THE PARTICULAR
22 AGGREGATION OF CHECKS THAT SHE BROUGHT BACK TO YOU IN THE SENSE
23 THAT YOU WEREN'T THERE WHEN THEY WERE PURCHASED; IS THAT
24 CORRECT?

25 A I WAS NOT THERE WHEN THEY WERE PURCHASED.

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1 Q OKAY. AND I UNDERSTAND FROM YOUR CROSS-EXAMINATION WITH
2 MR. MORRISON THAT IT WASN'T BECAUSE IT WAS ILLEGAL, AT LEAST IN
3 YOUR MIND, THAT YOU TURNED DOWN THE CASH, IT IS JUST THAT YOU
4 WEREN'T USED TO THAT AND YOU WANTED A PAPER TRAIL AS YOU SAID;
5 CORRECT?

6 A I DIDN'T REALLY KNOW THE LEGALITY OR THE ILLEGALITY OF IT,
7 I JUST DID NOT -- EVERY TIME I GET A CHECK FOR A CLOSING I MAKE
8 A COPY OF IT. THAT IS JUST THE WAY I PRACTICE AND I DIDN'T
9 WANT TO SIT -- YOU CAN'T MAKE -- AT LEAST I DON'T THINK YOU CAN
10 MAKE A COPY OF A \$100 BILL OR A \$50 BILL.

11 Q WERE YOU AWARE, MR. WOLF, THAT IF YOU -- ARE YOU AWARE IN
12 YOUR PRACTICE THAT IF YOU RECEIVE CASH IN EXCESS OF \$10,000 AND
13 DEPOSIT IT IN YOUR ACCOUNT THAT THAT MAY TRIGGER A FEDERAL
14 REPORTING REQUIREMENT?

15 A I HAVE BEEN TOLD THAT. I NEVER HAD IT HAPPEN BUT I HAVE
16 BEEN TOLD THAT.

17 Q WHO TOLD YOU THAT?

18 A MY BANKER.

19 Q WERE YOU AWARE THAT IF YOU FAIL TO DO THAT THERE MAY BE A
20 CRIMINAL PENALTY INVOLVED?

21 A NO.

22 Q YOU DID NOT KNOW THAT?

23 A NO.

24 Q EVEN THOUGH YOU PRACTICE REAL ESTATE?

25 A RIGHT. I HAVE NEVER DEPOSITED FROM A CLOSING CASH BEFORE,

1 AND NEVER HAVE AND NEVER WILL AGAIN -- NEVER WILL.

2 MR. ABBOTT: THOSE ARE MY QUESTIONS. THANK YOU.

3 THE COURT: MR. ROSEN?

4 MR. ROSEN: NO QUESTIONS.

5 THE COURT: THE GOVERNMENT?

6 REDIRECT EXAMINATION

7 BY MR. MOYE:

8 Q MR. WOLF, THE DOCUMENT, THE CLOSING STATEMENT --

9 A YES.

10 MR. MOYE: YOUR HONOR, I THINK I TENDERED 129-A.

11 THE COURT: IT IS IN.

12 MR. MOYE: AS TO 129 ITSELF, I WOULD ASK WITH THE
13 COURT'S PERMISSION TO BE ALLOWED TO RETURN THAT TO MR. FISHMAN
14 WHO IS ITS CUSTODIAN.

15 THE COURT: YOU MEAN MR. WOLF?

16 OH, MR. FISHMAN. THAT'S RIGHT. IT'S ALL RIGHT.

17 IS THAT ALL YOU HAVE?

18 MR. MOYE: THOSE ARE ALL MY QUESTIONS.

19 THE COURT: ALL RIGHT, MR. WOLF, YOU MAY STAND DOWN
20 AND BE EXCUSED, IF YOU LIKE.

21 (WITNESS EXCUSED FROM THE STAND)

22 THE COURT: WHO DO YOU CALL NEXT?

23 MR. MOYE: I CALL WINFRED JORDAN.

24 THE COURT: ASK MR. JORDAN TO JOIN US, PLEASE.

25 MR. MOYE: YOUR HONOR, GIVEN THE APPARENT DELAY,