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1 MR. MOYE: THANK YOU, MS. CHANDLER.

2 YOUR HONOR, I HAVE NO FURTHER QUESTIONS ON DIRECT  
3 EXAMINATION.

4 THE COURT: MR. MORRISON?

5 MR. MORRISON: NO QUESTIONS.

6 THE COURT: MR. ABBOTT?

7 MR. ABBOTT: NO QUESTIONS, YOUR HONOR.

8 THE COURT: MR. ROSEN?

9 MR. ROSEN: NO QUESTIONS.

10 THE COURT: MR. AXAM?

11 MR. AXAM: NO.

12 THE COURT: STEP DOWN, MS. CHANDLER.

13 (WHEREUPON, THE WITNESS WITHDREW FROM THE  
14 WITNESS STAND.)

15 MR. MOYE: CALL MR. JEFFREY DURAN.

16 JEFFREY DURAN,

17 BEING FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

18 THE CLERK: BE SEATED, PLEASE, AND STATE YOUR NAME  
19 FOR THE RECORD.

20 THE WITNESS: MY NAME IS JEFFREY J. DURAN.

21 DIRECT EXAMINATION

22 BY MR. MOYE:

23 Q. MR. DURAN, HOW ARE YOU EMPLOYED?

24 A. LINEMAN WITH GEORGIA POWER.

25 Q. MR. DURAN, WHERE DO YOU LIVE?

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1 A. 1694 CAMPGROUND ROAD, McDONOUGH.

2 Q. MR. DURAN, WAS THERE A TIME WHEN YOU WERE INVOLVED IN THE  
3 TRANSFER OF CERTAIN PROPERTY ON PANOLA ROAD AS THE EXECUTOR OF  
4 THE ESTATE OF HARRY DURAN?

5 A. YES, SIR.

6 Q. WAS MR. HARRY DURAN YOUR FATHER?

7 A. YES, SIR.

8 Q. AND THIS PIECE OF PROPERTY ON PANOLA ROAD, CAN YOU TELL US  
9 A LITTLE ABOUT THAT PROPERTY?

10 A. IT WAS FOUR-BEDROOM SPLIT-LEVEL HOUSE, TWO AND A HALF  
11 BATH, BRICK. IT WAS ABOUT TWENTY YEARS OLD ON ABOUT A HALF  
12 ACRE LOT.

13 Q. DID YOU EVER LIVE THERE?

14 A. YES, SIR.

15 Q. WAS THIS A FAMILY HOME?

16 A. YES, SIR.

17 Q. DID THERE COME A POINT IN TIME WHEN THIS HOUSE WAS SOLD  
18 AFTER THE DEATH OF YOUR FATHER?

19 A. YES, SIR.

20 Q. TELL US HOW YOU WENT ABOUT SELLING THE HOUSE.

21 A. FIRST OF ALL, IT NEEDED SOME REPAIR SO WE SPENT A GOOD BIT  
22 OF MONEY REPAIRING THE HOME. I PUT UP A FOR SALE SIGN BY  
23 OWNER, AND IT WASN'T A DAY OR TWO AFTER I PUT IT UP MR. GEORGE  
24 HIGH CALLED AND WANTED TO LOOK AT THE HOUSE. AND HE SAID HE  
25 WAS SITTING IN THE DRIVEWAY, HAD A MAN THAT WANTED TO LOOK AT

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1 IT. SO I CALLED MY DAD'S NEIGHBOR, MR. HICKMAN, WHICH HE HAD A  
2 KEY, AND THEY WENT IN AND LOOKED AT IT. AND I THINK IT WAS  
3 THAT NIGHT OR THE NEXT DAY MR. HIGH WANTED TO LIST IT, THOUGHT  
4 HE HAD A PROSPECTIVE BUYER. AND I TOLD HIM, WE DISCUSSED THE  
5 TRANSACTION, THE PERCENTAGE HE WOULD GET FOR LISTING IT. I  
6 TOLD HIM THAT I WOULD LIKE HIM TO LIST IT IF WE COULD HAVE A  
7 CONTRACT THE NEXT DAY.

8 Q. AND DID YOU SELL THE HOUSE?

9 A. YES, SIR, WE DID.

10 Q. DID YOU EMPLOY THE SERVICES OF AN ATTORNEY IN SELLING THE  
11 HOUSE?

12 A. YES, SIR, I DID.

13 Q. WHO WAS THAT?

14 A. S.T. ELLIS.

15 Q. HOW LONG AFTER THIS FIRST CONVERSATION THAT YOU HAD WITH  
16 MR. GEORGE HIGH DID YOU SELL THE HOUSE?

17 A. ABOUT TWO DAYS.

18 Q. DID YOU CLOSE ON IT IN TWO DAYS?

19 A. NO. IT TOOK ABOUT EIGHT WEEKS TO CLOSE.

20 Q. YOU HAD A -- DID YOU GET A CONTRACT ON THE HOUSE IN ABOUT  
21 TWO DAYS?

22 A. YES, SIR, WE DID.

23 Q. NOW, WHEN YOU SOLD THE HOUSE, WAS THIS AN ENTIRE CASH SALE  
24 OR SOME FORM OF FINANCING?

25 A. THERE WAS \$35,000 DOWN, WE FINANCED \$44,900 FOR 15 MONTHS

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- 1 AT 10 PERCENT INTEREST.
- 2 Q. MR. DURAN, WHEN YOU FINANCED, I THINK YOU SAID \$44,900,
- 3 DID YOU TAKE A NOTE?
- 4 A. YES, SIR.
- 5 Q. LET ME SHOW YOU GOVERNMENT EXHIBIT 173-U-2, AND ASK YOU IF
- 6 YOU SEE YOUR SIGNATURE ON THAT DOCUMENT?
- 7 A. YES, SIR.
- 8 Q. WHAT IS THE DOCUMENT THAT IS BEFORE YOU?
- 9 A. WELL, IT'S A DEED TO SECURE REAL ESTATE.
- 10 Q. IS THIS THE DEED OR IS THIS JUST THE NOTE?
- 11 A. IT'S THE NOTE.
- 12 Q. AND THE NOTE IS IN THE AMOUNT OF HOW MUCH?
- 13 A. \$44,900.
- 14 Q. AT SOME POINT WAS THAT NOTE SATISFIED?
- 15 A. YES, SIR. SEPTEMBER 24TH, 1990 IT WAS PAID IN FULL.
- 16 Q. HOW LONG AFTER THE HOUSE WAS SOLD WAS THE NOTE SATISFIED?
- 17 A. A LITTLE MORE THAN 15 MONTHS.
- 18 Q. MR. DURAN, WHO WAS THE MAKER OF THE NOTE, THAT IS, WHO
- 19 OWED YOU THE MONEY?
- 20 A. SIMS JINKS.
- 21 Q. IN THAT 15 MONTHS AFTER YOU SOLD THE HOUSE, DID YOU
- 22 RECEIVE PAYMENTS?
- 23 A. YES, SIR, WE DID.
- 24 Q. DO YOU RECALL HOW OFTEN YOU RECEIVED PAYMENTS?
- 25 A. IT VARIED, YOU KNOW. I CAN GIVE YOU THE DATES THEY PAID

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1 ME AND HOW MUCH.

2 Q. DO YOU HAVE SOME RECEIPTS?

3 A. YES, SIR, I DO.

4 MR. MOYE: YOUR HONOR, MAY I HAVE JUST A MOMENT,  
5 PLEASE?

6 THE COURT: ALL RIGHT.

7 BY MR. MOYE:

8 Q. MR. DURAN, I HAND YOU WHAT I HAVE MARKED FOR  
9 IDENTIFICATION AS GOVERNMENT 106-E, AND ASK YOU, SIR, IF YOU  
10 CAN TELL US WHAT THOSE DOCUMENTS ARE?

11 A. JUST A RECEIPT THAT I SIGNED AND MR. JINKS SIGNED ON THREE  
12 OF THEM WHEN HE WAS PRESENT. THE OTHER THREE RECEIPTS ARE JUST  
13 WHERE I SIGNED BECAUSE MR. JINKS WAS NOT PRESENT.

14 Q. NOW, WHEN YOU SIGNED AND MR. JINKS WAS NOT PRESENT, FROM  
15 WHOM DID YOU RECEIVE THE PAYMENT THAT IS REPRESENTED BY THE  
16 RECEIPT?

17 A. GEORGE HIGH.

18 Q. DO YOU SEE GEORGE HIGH IN THE COURTROOM?

19 A. YES, SIR.

20 Q. WOULD YOU POINT HIM OUT FOR THE RECORD?

21 A. FAR RIGHT-HAND FRONT ROW.

22 Q. WHAT IS HE WEARING?

23 A. A SUIT WITH A VEST AND A RED TIE.

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

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1 THE COURT: ALL RIGHT.

2 BY MR. MOYE:

3 Q. MR. DURAN, IN WHAT FORM DID YOU RECEIVE PAYMENT ON THOSE  
4 OCCASIONS?

5 A. CASH.

6 Q. WAS THAT TRUE ON EACH OF THE OCCASIONS?

7 A. YES, SIR.

8 Q. TELL US, IF YOU CAN BY LOOKING AT THE DOCUMENTS, 106-E,  
9 WHAT DAYS YOU RECEIVED CASH PAYMENTS?

10 A. 7/24/89 I RECEIVED \$10,000. 9/23/89 I RECEIVED \$10,000.  
11 1/6/90 I RECEIVED \$5,000. 3/19/90 I RECEIVED \$6,000. 7/31/90,  
12 \$3,000, SEPTEMBER 24, 1990, \$10,990.

13 Q. NOW, ON THE 24TH OF JULY 1989, WHO DID YOU RECEIVE THE  
14 MONEY FROM?

15 A. SIMS JINKS.

16 Q. DID MR. JINKS DELIVER THE MONEY TO YOU?

17 A. I PICKED IT UP AT MR. HIGH'S OFFICE.

18 Q. AND WHO ACTUALLY HANDED IT TO YOU, DO YOU KNOW?

19 A. I CAN'T RECALL.

20 Q. ON THE RECEIPT YOU HAVE, WHOSE SIGNATURES APPEARS?

21 A. MR. JINKS AND MINE.

22 Q. THAT'S THE ONE DATED 7/24/89?

23 A. YES, SIR.

24 Q. THE ONE DATED 9/23/89, WHERE DID YOU PICK UP THAT PAYMENT?

25 A. MR. HIGH'S OFFICE.

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- 1 Q. AND WHO DELIVERED IT TO YOU, DO YOU KNOW?
- 2 A. MR. JINKS.
- 3 Q. WHOSE SIGNATURE APPEARS ON YOUR RECEIPT?
- 4 A. MR. JINKS'.
- 5 Q. ON THE JANUARY 6, 1990 PAYMENT, WHERE DID YOU RECEIVE IT?
- 6 A. MR. HIGH'S OFFICE.
- 7 Q. WHO DID YOU RECEIVE THE PAYMENT FROM?
- 8 A. MR. JINKS.
- 9 Q. WHOSE SIGNATURE APPEARS ON YOUR RECEIPTS?
- 10 A. MR. JINKS.
- 11 Q. ON 3/19/90, WHERE DID YOU RECEIVE THAT PAYMENT?
- 12 A. MR. HIGH'S OFFICE.
- 13 Q. WHO DELIVERED THAT PAYMENT TO YOU?
- 14 A. MR. HIGH.
- 15 Q. WHOSE SIGNATURE APPEARS ON YOUR RECEIPT?
- 16 A. I DO NOT HAVE ONE.
- 17 Q. YOU DON'T HAVE A RECEIPT?
- 18 A. NOT SIGNED BY MR. HIGH.
- 19 Q. HOW DO YOU KNOW MR. HIGH DELIVERED THE MONEY TO YOU ON
- 20 THAT OCCASION?
- 21 A. I WAS THERE.
- 22 Q. JULY 31, 1990, ON THAT RECEIPT, WHERE DID YOU PICK UP THAT
- 23 MONEY?
- 24 A. MR. HIGH'S OFFICE.
- 25 Q. AND WHO DELIVERED THE PAYMENT TO YOU?

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- 1 A. MR. HIGH.
- 2 Q. WHOSE SIGNATURE APPEARS ON YOUR RECEIPT?
- 3 A. JUST MINE.
- 4 Q. AND ON THE 24TH OF SEPTEMBER, 1990, WHO DELIVERED THAT
- 5 PAYMENT TO YOU?
- 6 A. MR. HIGH.
- 7 Q. AND WHERE DID YOU RECEIVE IT?
- 8 A. MR. HIGH'S OFFICE.
- 9 Q. AT THAT POINT WAS THE NOTE MARKED PAID IN FULL?
- 10 A. YES, SIR.
- 11 Q. I WANT YOU TO LOOK, MR. DURAN, AT GOVERNMENT EXHIBIT
- 12 173-U-1 AND TELL ME IF THAT STACK OF DOCUMENTS APPEARS TO BE
- 13 THE SAME AS GOVERNMENT EXHIBIT 106-E?
- 14 A. EVERYTHING IS THE SAME EXCEPT FOR 3/19/90.
- 15 Q. YES, SIR.
- 16 A. UPON RECEIVING THE MONEY I TOOK IT HOME AND COUNTED IT
- 17 BEFORE I TOOK IT TO THE BANK, AND INSTEAD OF \$5,000, THEY PAID
- 18 ME \$6,000.
- 19 Q. WHEN THEY PAID YOU \$6,000 ON THAT OCCASION, DID YOU NOTE
- 20 THAT TO MR. HIGH OR TO MR. JINKS?
- 21 A. I BROUGHT IT TO MR. HIGH'S ATTENTION.
- 22 Q. WHAT DID YOU TELL MR. HIGH ABOUT THE OVERPAYMENT?
- 23 A. I JUST STATED THAT THEY OVERPAID ME AND I WAS GOING TO
- 24 CREDIT IT TO THE ACCOUNT.
- 25 Q. DID YOU DO THAT?



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1 A. YES, SIR, ON MY RECEIPT.

2 MR. MOYE: YOUR HONOR, I WOULD TENDER GOVERNMENT  
3 EXHIBIT 173 -- EXCUSE ME, 106-E.

4 THE COURT: ANY OBJECTION? I THINK YOU OUGHT TO MAKE  
5 COPIES OF THOSE RECEIPTS AND LET THIS FELLOW KEEP THE ORIGINALS  
6 FOR THE PURPOSE OF AN ESTATE. HE MIGHT NEED THEM.

7 MR. MOYE: WITH THE COURT'S PERMISSION, I WILL BE  
8 HAPPY TO DO THAT AT THE END OF THE DAY.

9 THE COURT: AS LONG AS YOU CAN GET THEM BACK TO HIM.

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

11 I HAVE NO FURTHER QUESTIONS ON DIRECT, YOUR HONOR.

12 THE COURT: MR. MORRISON?

13 CROSS-EXAMINATION

14 BY MR. MORRISON:

15 Q. MR. DURAN, I WILL JUST ASK QUESTIONS FROM OVER HERE. I AM  
16 GEORGE HIGH'S ATTORNEY. I JUST WANT TO MAKE SURE I AM CLEAR ON  
17 ONE THING. IT WAS CLEAR IN YOUR MIND THAT THE PROPERTY WAS  
18 BEING BOUGHT BY SIMS JINKS?

19 A. YES, SIR.

20 Q. AND YOU MET MR. JINKS?

21 A. YES, SIR.

22 Q. ON NUMEROUS OCCASIONS I TAKE IT?

23 A. [IMAGINE ABOUT FOUR TIMES TOTAL.

24 Q. AND THAT INCLUDES THE TIMES HE MADE THE PAYMENTS TO YOU?

25 A. YES, SIR, AND THE CLOSING.

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1 Q. AND ON THOSE OCCASIONS WHERE YOU WOULD RECEIVE THE  
2 MORTGAGE PAYMENTS -- THESE WERE QUARTERLY PAYMENTS?

3 A. THEY JUST VARIED.

4 Q. ON THE TIMES YOU RECEIVED THOSE PAYMENTS FROM MR. HIGH,  
5 THERE WAS NO QUESTION IN YOUR MIND THAT THOSE PAYMENTS WERE  
6 MADE ON BEHALF OF SIMS JINKS, IS THERE?

7 A. THAT IS CORRECT.

8 MR. MORRISON: THAT'S ALL THE QUESTIONS I HAVE.

9 THE COURT: MR. ABBOTT?

10 MR. ABBOTT: NO QUESTIONS.

11 THE COURT: MR. ROSEN?

12 MR. ROSEN: NO QUESTIONS.

13 THE COURT: MR. AXAM?

14 MR. AXAM: NO.

15 THE COURT: DOES THE GOVERNMENT HAVE ANYTHING ELSE?

16 MR. MOYE: VERY BRIEFLY.

17 REDIRECT EXAMINATION

18 BY MR. MOYE:

19 Q. ON THOSE OCCASIONS THAT YOU RECEIVED PAYMENTS FROM MR.  
20 JINKS, WAS MR. HIGH PRESENT?

21 A. YES, SIR.

22 MR. MOYE: THANK YOU, SIR. I HAVE NO FURTHER  
23 QUESTIONS.

24 THE COURT: MR. MORRISON?

25 MR. MORRISON: NOTHING FURTHER.