

SWORN STATEMENT

WITNESS: DONALD JONES

RE: THOMAS SPELLISSY

DATE: DECEMBER 21ST, 2007

3:15 P.M. TO 4:30 P.M.

LOCATION: MCGUIRE LAW OFFICES

1173 NORTHEAST CLEVELAND STREET

CLEARWATER, FL

REPORTER: KIMBERLY HAMMOCK

NOTARY PUBLIC

STATE OF FLORIDA AT LARGE

D & D REPORTING SERVICE

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1 APPEARANCES:

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JOHN F. MCGUIRE, ESQ.

4

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CLEARWATER, FL

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10 Also Appearing: Thomas Spellissy

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I N D E X

17 Examination by Mr. McGuire ..... 3

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1 Thereupon,

2 DON JONES,

3 was called and after being duly sworn, was examined

4 and testified as follows:

5 MR. WEIR: (Via Telephone) My name is Lieutenant

6 Steve Weir, W-E-I-R. I am the Deputy Staff Judge

7 Advocate. I've spoken to Mr. Jones in reference to

8 his deposition today. I have authorized his

9 participation in today's deposition. I have spoken

10 with him concerning classified information and he

11 understands that he is not authorized to disclose

12 classified information during this deposition and if a

13 question should arise by anyone and that the answer is

14 classified information, he is to respond that this is

15 not the proper form for that information to be

16 disclosed.

17 THE COURT REPORTER: Thank you.

18 EXAMINATION

19 BY MR. MCGUIRE:

20 Q Sir, could you state your name for the record,

21 please?

22 A Don Jones.

23 Q And either your mailing address or post office

24 box where you would receive a subpoena if one was issued?

25 A Mailing address or house address is 2756 Resnik,

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1 R-E-S-N-I-K, Circle West, Palm Harbor, Florida 34683.

2 Q Have you ever had a sworn statement taken by a  
3 court reporter of you before?

4 A For this case or any case?

5 Q Any case ever.

6 A Not that I can think of.

7 Q So what I'm going to do is, I'm going to ask you  
8 some questions. If you understand the questions, just  
9 answer them. She's typing it down. If you don't  
10 understand the question, just ask me to repeat it or  
11 explain it. Also, she can't take down any uh-huhs or  
12 huh-uhs or head nods. You have to answer verbally.

13 A Okay.

14 Q How long have you lived at that address in Palm  
15 Harbor?

16 A Seven years.

17 Q Does anyone reside there with you?

18 A My wife.

19 Q Could you briefly explain your educational

20 background?

21 A Finished high school. Dunedin High School. Did

22 four years at West Point gaining a Bachelors of Science

23 Degree. A year and a half at Georgia Tech. Got a Masters

24 in Assisted Engineering and then went through the Army

25 schools for typical officer training.

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1 Q Was that like the War College and things like  
2 that?

3 A Officer Basic Course. Officer Advanced Course.  
4 Internal Officer Management Course. Program Management  
5 Course.

6 Q And how long did you -- after your education, did  
7 you serve on active duty?

8 A Served a total of twenty-one years active duty.

9 Q In the U.S. Army?

10 A Yes.

11 Q And what was your rank upon retirement?

12 A Lieutenant Colonel.

13 Q About when did you retire?

14 A May -- end of May 2000.

15 Q Had you every been disciplined in the Army?

16 Reduction of rank or anything like that?

17 A No.

18 Q Receive any medals or awards while you were in  
19 the Army?

20 A Yes.

21 Q Briefly, what would those be?

22 A I'm trying to think. Meritry Search Medal.

23 ARCOM, Army Accommodation Medal. I think it was the M.S.N.

24 but whatever the next step up is from the Army

25 Accommodation Medal.

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1 Q Just out of curiosity, an Army Accommodation  
2 Medal. Why did you receive that? Any particular reason or  
3 just for your service?

4 A I don't remember. Service. End of tour award.

5 Q Ever serve in combat?

6 A I spent four and a half months in Baghdad last  
7 year.

8 Q Last year?

9 A Yes.

10 Q Before that --

11 A No.

12 Q But last year you were not in active duty, right?

13 A No. I was a Department Army civilian supporting  
14 the science technology efforts in Iraq.

15 Q So from 1981 until the year 2000, you were never  
16 sent into a combat environment, is that correct?

17 A Yes.

18 Q And during that time frame we, obviously, had  
19 combat situations in Panama, Grenada, Desert Storm, the

20 first, one among others, isn't that correct?

21 A Yes.

22 Q But you had not served in any of those?

23 A No. In Desert Storm I was finishing graduate

24 school. I finished a couple months early, but still a few

25 weeks too late to get in. During Panama, I was not in an

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1 active -- I was not in a unit that got deployed. Grenada  
2 was a short fight. Basically, an infantry fight.

3 Q Now, let me ask you this. After you retired from  
4 the military in the year 2000, what was your next  
5 professional job?

6 A I worked with a company, it got bought out and  
7 renamed a couple times. It was originally Sterling  
8 Software. At the end it was part of Northrop Grumman, I.T.

9 THE COURT REPORTER: Could you spell that for me,  
10 please?

11 THE WITNESS: N-O-R-T-H-R-O-P G-R-U-M-M-A-N.

12 BY MR. MCGUIRE:

13 Q Is that a GPS company or something?

14 A It was a company supporting STRICOM over in  
15 Orlando.

16 Q Was that as a civilian employee in Orlando?

17 A As a contractor.

18 Q Could you explain what a contractor is, that  
19 term, for me?

20     A    It's just a civilian working for a private  
21 company that has a contract with the government.

22     Q    And what did you do next in your professional  
23 career?

24     A    I took a job with Jacobs Engineering in Tampa.

25     Q    Jacobs? Is that Jacobs Sverdrup? The second

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1 word is S-V-E-R-D-R-U-P, is that correct?

2 A Yes.

3 Q How do you pronounce that?

4 A Sverdrup, I believe.

5 Q So you took a job with them in Tampa?

6 A Yes.

7 Q And what did you do in that job? I'm just going  
8 to call them Jacobs because I can't really pronounce that.

9 A A logistics analyst.

10 Q And who did you work for -- they subcontracted  
11 from someone else, correct?

12 A They were -- I'm not sure if they were the  
13 primary contractor at that point or not. I believe they  
14 were under something called an ALMBOS contract,  
15 A-L-M-B-O-S.

16 Q Okay. So under the ALMBOS contract, who did you  
17 work for?

18 A I worked for Jacobs Sverdrup assigned to P.E.O.  
19 Special Programs.

20 Q Would you explain what P.E.O. Special Programs

21 is?

22 A It's a program executive office in SOCOM.

23 Q And what did you do for them?

24 A Logistics analyst.

25 Q What does that mean, basically, in layman's terms

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1 if you could?

2 A Supporting the logistics component of the  
3 different programs in doing things. Determining levels of  
4 maintenance support. Doing logistics related activities in  
5 support of the overall programs.

6 Q Would you go to active duty military personnel  
7 and advise them?

8 A Yes.

9 Q And was one of those people that you would have  
10 advised Colonel Spellissy at the time?

11 A Not normally. He was a level up. I would go to  
12 my -- the government supervisor over our position was Pat  
13 Carley.

14 Q What's the name?

15 A Pat Carley.

16 Q Can you spell the last name?

17 A C-A-R-L-E-Y.

18 Q What did you do next in your professional career?

19 A Applied for a Department of Army Civilian

20 position with ARDEK (phon) supporting P.E.O. Special

21 Programs?

22 Q What year was that, that you applied for that or

23 got that?

24 A May of '04.

25 Q Who did you apply through?

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1 A I applied -- there's a government web site.

2 Q Did you get that job?

3 A Yes.

4 Q So was there a time when you were the Program

5 Manager for Special Operations & Ammunition?

6 A Yes. That was the title.

7 Q So were you then still contractor or were you a

8 government employee?

9 A Government employee.

10 Q So, if I've got this straight, you were first a

11 United States military officer. Second, you were a

12 government contractor. Then this third job, you were a

13 civilian government employee?

14 A Yes.

15 Q And you were a GS-14?

16 A Actually, it was called an NH-4 position. The

17 military for D.O.D. is -- I believe it was something called

18 NSGS, National -- I forget what the acronym stands for.

19 It's a new personnel management system and the NH-4 was

20 equivalent to, approximately, a GS-14 or 15.

21 Q So the NH-4 was the paid rate, basically, the

22 rank of you, as your civilian employee job?

23 A Yes.

24 Q Did you receive any training from any military

25 personnel while you were on-the-job in May of 2004?

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1 A No.

2 Q Where did you report to, to go to work everyday  
3 in May of 2004 in your new job?

4 A P.E.O. Special Programs.

5 Q And who was in charge of the P.E.O. Special  
6 Programs at that time?

7 A At that time, it was Colonel Spellissy.

8 Q So did you report to Colonel Spellissy or work  
9 with him on a daily basis at that time?

10 A Not a daily basis, no. I worked with him and the  
11 Deputy P.E.O. as needed.

12 Q Who was the Deputy P.E.O.?

13 A Stan Hivhsmith.

14 THE COURT REPORTER: Can you spell that?

15 THE WITNESS: H-I-V-H-S-M-I-T-H.

16 BY MR. MCGUIRE:

17 Q Okay. And then there came a time when Colonel  
18 Spellissy retired, correct?

19 A Yes.

20 Q And that was around --

21 A End of July. About two months later.

22 Q In 2004?

23 A Yes.

24 Q And he was replaced by a Captain Huss?

25 A Yes.

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1 THE COURT REPORTER: Spell that, please.

2 THE WITNESS: H-U-S-S.

3 BY MR. MCGUIRE:

4 Q And then after that, after July of 2004, did  
5 there come a time when you relied upon or needed Colonel  
6 Spellissy, who was then retired, his expertise as a  
7 consultant for a trip to Sweden, Norway and Germany?

8 A I was informed by the Deputy that a contract  
9 effort was under way. I supported the effort because I  
10 thought Colonel Spellissy had knowledge, skills and  
11 abilities that would be very helpful to the government.  
12 Especially in the first organization we went to, and that  
13 turned out to be the case.

14 Q The Deputy was Stan Hivhsmith?

15 A Yes.

16 Q So he directed you to use Colonel Spellissy?

17 A It's been three years. I don't remember every  
18 detail, but as I remember it, on Monday morning I came in.  
19 He said -- told me about the contract effort. He asked me

20 to do a justification or prepare the justification for the  
21 rate, because the normal person that would do it, the  
22 C.O.R., wasn't available, either T.D.Y. or on leave, told  
23 me the rate. The numbers he gave, the rate was,  
24 approximately, fifteen percent higher than what's the  
25 normal high. I considered the importance of the first --

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1 especially the first meeting, that I still supported the  
2 fifteen percent difference.

3 Q Was it an issue that SOCOM had with a company  
4 called Saab Bofors? Is that one of the issues that --

5 A Yes. It was a program that was ongoing.

6 THE COURT REPORTER: John, can you spell that for  
7 me?

8 MR. MCGUIRE: S-A-A-B. Second word, B-O-F-O-R-S.

9 BY MR. MCGUIRE:

10 Q Let me ask you this question.

11 MR. MCGUIRE: I'm going to copy this and mark it  
12 as an exhibit.

13 (At this time Exhibit No. 1 was marked  
14 for identification.)

15 BY MR. MCGUIRE:

16 Q When you were to use Colonel Spellissy, he was  
17 with then -- at that time with Jacobs Sverdrup?

18 A That was the contract -- my understanding, that  
19 was the contract vehicle that was used to hire him as a

20 subcontractor.

21 Q So can you just look at this document and tell me

22 what it is?

23 A It's a sponsorship for a security clearance.

24 Q The amount of money increase this fifteen

25 percent -- or the funds to hire Colonel Spellissy through

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1 this company was \$9600 to this Jacobs corporation, correct?

2 A That was my understanding. I never actually saw  
3 the contract, so I'm not sure how everything broke out, but  
4 there was a contract cost and then there was the labor cost  
5 and the cost was a subset.

6 Q And you were aware that Colonel Spellissy had  
7 previously been approved as a civilian contractor with a  
8 top secret clearance and all the access code and access  
9 clearances to go on this trip, correct?

10 A The contract was approved and I was told that --  
11 I was told that the contract was approved and to execute  
12 the mission.

13 Q Did you -- do you know who Jessica Tucker is?

14 A The name is familiar, but, no, I don't.

15 Q Could she have been a person who approved the  
16 contract, that increase?

17 A I don't know.

18 MR. MCGUIRE: Can we go off the record for a just  
19 a second.

20 (At this time a brief discussion was held

21 off the record.)

22 BY MR. MCGUIRE:

23 Q Do you know what a contract specialist is?

24 A Someone who works contracts for government.

25 Q If you were to have this contract approved by,

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1 someone would it be a contract specialist?

2 A It would be someone in the contract office.

3 Q Do you remember if a Jessica Tucker worked in the  
4 contract office?

5 A No. I didn't have that much interaction with the  
6 contract folks.

7 Q Well, Colonel Spellissy was approved to go on the  
8 trip to Norway, correct?

9 A That's what I was told, correct.

10 Q Who told you that?

11 A There was a phone call I received shortly before  
12 leaving. I can't remember who it was. It was someone from  
13 contracting to say that it had finally been approved.

14 Q While you were on this trip with Colonel  
15 Spellissy, do you recall him being instrumental in,  
16 basically, saving the United States Government two million  
17 dollars?

18 A Yes. Let's say a benefit to the government of  
19 two million dollars, approximately, yes.

20 Q Do you recall Colonel Spellissy being present in  
21 some meetings with NAMO in Norway?

22 A Yes.

23 Q Specifically, there was a meeting where -- first  
24 of all, do you know that the 70 Millimeter Warhead is  
25 produced my NAMO?

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1 A Yes.

2 Q Were you aware that Colonel Spellissy was not  
3 sitting in the meeting with NAMO and yourself while that  
4 particular weapon was discussed?

5 A I remember before we started meetings with NAMO,  
6 Colonel Spellissy had said something to the effect that,  
7 during discussions with NAMO, I'm not a government -- I'm  
8 not acting for the government, or something to that effect,  
9 if I remember correctly. Then when it came time for the  
10 meetings with NAMO, he made a point to leave. I don't  
11 remember him saying why, though.

12 Q So he was not present during the meeting where  
13 the 70 Millimeter Warhead was discussed, is that correct?

14 A No. We had a formal meeting with an agenda, I  
15 forget what time it was, he came in and he said, "I have to  
16 go," or he said something -- I don't remember the words.  
17 It's been three years, but he made a point of leaving and I  
18 wasn't sure exactly why he was leaving, but he left. I  
19 don't remember if he told me and I just forgot or if he

20 didn't say it or -- I don't know, but he made a point of  
21 leaving.

22 Q Who else was in the room? Do you know who Jim  
23 Rooney is?

24 A Yes.

25 Q Was he in the room at the time?

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1 A I don't remember. It's been long enough that a  
2 lot of the details, I just don't remember.

3 Q Do you remember anyone that was in the room when  
4 Colonel Spellissy left?

5 A There were the folks we were talking to with  
6 NAMO. Major Jackson had been on the trip. I don't  
7 remember for sure if he stayed or if he left, but he may  
8 have been there. I don't remember the details of the  
9 meeting.

10 Q Was Tom Spellissy present during any  
11 presentations of the 70 Millimeter Warhead?

12 A No. There were no demos. There was a demo of --

13 Q I'm going to read you a quote that, I believe,  
14 was by a judge in a case recently. I want you to pay  
15 attention to this. This is in an order by a judge in  
16 Colonel Spellissy's case.

17 A Okay.

18 Q "Based on the facts in Calvert's affidavit, there  
19 was probable cause to believe that when Spellissy

20 represented NAMO during the meeting concerning the 70  
21 Millimeter Rocket Warhead with the government in Norway, he  
22 had reason to know that the 70 Millimeter Rocket Warhead  
23 listed in Dr. Uhler's procurement letter was a NAMO product  
24 and that had been a matter under his official  
25 responsibility as P.E.O.S.P. during May 2004 contrary to

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1 prohibition in 18 USC Section 207A accordingly." The quote  
2 I just read to you says that he was present during this  
3 meeting in Norway. Would you say that statement is false?

4 A To the best of my memory, Colonel Spellissy left  
5 before that particular meeting started. Again, I don't  
6 remember what he said or exactly why he made a point.  
7 That's the only reason I remember that part of it because I  
8 don't remember exactly what he said or why, but he vacated  
9 the office.

10 Q Let me ask you this. Are you familiar with an  
11 investigation involving Tom Spellissy?

12 A Yes.

13 Q When did you first hear of an investigation with  
14 reference to Colonel Spellissy?

15 A I don't remember when. It was an article in the  
16 St. Pete Times.

17 Q Who is the first person that you talked to about  
18 it?

19 A I believe it was Agent Calvert.

20 Q So you spoke to Agent Calvert?

21 A Yes.

22 Q And when did you speak to him?

23 A I don't recall. It was somewhere March, April,

24 May of '05.

25 Q Robert E. Calvert? Does that sound familiar?

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1 A He gave me his card. Robert R. Calvert,  
2 according to his card.

3 Q I take it you saved it?

4 A Yes.

5 Q You still talk to him?

6 A No. It was that one time, I believe.

7 Q I want to make a copy of that, if you don't mind.

8 A Sure. He said if I had any other information for  
9 later, give him a call.

10 Q So you talked to him one time. What did you  
11 discuss with Special Agent Calvert?

12 A His question was -- I don't remember the  
13 questions. The only thing I remember about it was the  
14 picketing contract.

15 Q What did he ask you about?

16 A I don't remember a lot of the details. There was  
17 a question about the statement of work.

18 Q Did he tape an interview with you?

19 A No. Not that I recall.

20 Q So in this one conversation that you had with

21 him, did he discuss the 70 Millimeter Warhead?

22 A Not that I recall.

23 Q Did he discuss a man named Bill Burke with you?

24 A Not that I recall. It's been long enough. I

25 don't remember a lot of the details. I'm sorry.

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1 Q That's okay. With respect to this interview with  
2 Special Agent Calvert, where was it done at?

3 A It was done at SOCOM.

4 Q Was anyone else present?

5 A There was another person there. I think he was  
6 introduced as an FBI agent. I don't recall his name.

7 Q Would FBI Agent Goreman (phon) sound familiar?

8 A I don't remember.

9 Q So that's one other person. Anyone else?

10 A I think it was just the three of us. If I  
11 remember right, Agent Calvert did, most if not all, of the  
12 talking.

13 Q Did he threaten or intimidate you in anyway?

14 A No.

15 Q Did he tape your interview?

16 A I don't remember for sure, but I don't think so.

17 Q Well, I would assume you would know if it was  
18 voluntary taped. Someone would say, I'm going to tape this  
19 conversation or do you mind if I tape this conversation and

20 you would say no. You would remember that, correct?

21 A I would think so, but I don't remember that

22 conversation. I don't remember it being taped.

23 Q So it's possible if it was taped, it either

24 didn't happen or it was a secret taping of the

25 conversation?

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1     A   Or I just forgot that it was being taped. As far  
2 as I can remember, that one wasn't taped, but I may have  
3 forgotten that he said it or if there's a tape of it, I  
4 guess it would be a secret.

5     Q   So this was in early 2005, right?

6     A   Yes. Somewhere March, April, May.

7     Q   I think you already answered that you never  
8 discussed the 70 Millimeter Rocket Warhead with Special  
9 Agent Calvert, correct?

10    A   I don't remember talking about it. I didn't take  
11 any notes. It was a one-time conversation and it's been  
12 two and a half years or however many years ago. I don't  
13 recall. It could have happened, but I don't recall it.

14    Q   Do you recall speaking to anyone else about the  
15 investigation of Colonel Spellissy?

16    A   There was another -- a D.C.I.S. agent came up and  
17 they were asking questions about what companies P.E.O.S.P.  
18 worked with.

19    Q   When was that?

20 A That was December '05.

21 THE COURT REPORTER: John, can we go off the

22 record a second?

23 MR. MCGUIRE: Sure.

24 (At this time a brief recess was taken.)

25 BY MR. MCGUIRE:

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1 Q Do you know who Colonel Rupp (phon) is?

2 A Yes. He was a member of the SOCOM I.G. staff.

3 Q Did he ever investigate or interview you?

4 A Yes. Two or three times.

5 Q Do you remember if any of his conversations with  
6 you were taped?

7 A Yes. The second or third.

8 Q Was anybody present when he interviewed you?

9 A There was another -- I think it was an I.G.  
10 person. I think he was a Major. I don't recall his name.  
11 He sat over to the side and just sat, if I recall.

12 Q Did there come a time when you left the country  
13 for Iraq around early 2006?

14 A Yes. I was in Iraq from March 2006 to -- I got  
15 processed at Ft. Bliss the first part of August.

16 Q And what led you to go to Iraq?

17 A Some members of the organization I'm with were  
18 going over as part of a science technology team. I heard  
19 about it and I asked if I could go with them. They said

20 their team was full, but they gave me a point of contact  
21 for another -- for the person who was an ongoing  
22 assignment. So I applied and got put on the next team that  
23 went over.

24 Q How long since you applied until you got sent  
25 over?

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1     A    I think it was around November, December. I  
2   was -- I believe I was supposed to go on the following  
3   team, Team 13, but there was an issue that came up with one  
4   of the personnel and Team 12 said I could go with them four  
5   months early.

6     Q    So if there was a hearing in April of 2006, safe  
7   to say you would have been unavailable because you were in  
8   Iraq?

9     A    Yes.

10    Q    Did you ever speak to an attorney representing  
11   Colonel Spellissy before you went to Iraq?

12    A    No. I was -- Colonel Spellissy had sent me an  
13   E-mail asking me to talk to his attorney. I said I would.  
14   I then checked with my headquarters to make sure it was all  
15   right. Got an E-mail back saying it wasn't authorized for  
16   the regulation unless Colonel Spellissy's attorney made an  
17   official request of the U.S. Government and got approved  
18   and was authorized and things just stopped there so I could  
19   continue on with the mission and go to Iraq.

20 Q And, of course, you couldn't receive any

21 subpoenas in Iraq, correct?

22 A I guess not, no.

23 Q Did you ever feel either threatened or

24 intimidated to not cooperate in this investigation or talk

25 to anyone about this investigation?

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1 A No.

2 Q Do you know someone named Bill Burke?

3 A Yes.

4 Q Who is that?

5 A He worked in SOCOM (sic). He was a government  
6 contractor -- a civilian contractor supporting the  
7 government.

8 Q Was he a public official?

9 A I don't know what the definition of public  
10 official is. In general, a civilian contractor working for  
11 the government is not allowed to do what's called  
12 inherently governmental functions. It's a generic rule.  
13 I don't know the specifics of what would make his position  
14 public official or not.

15 Q Would you say he was in a sensitive position?

16 A Define sensitive.

17 Q Someone to make decisions for the government?

18 Purchasing? Things like that?

19 A As far as I know, you would have to ask his

20 bosses in SOCOM and take a look at the contracts with his  
21 parent company, but from my workings with him, I did not  
22 see him have that kind of authority.

23 Q Well, you had said when Colonel Spellissy went  
24 with you to Norway he had some classified clearance,  
25 correct?

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1 A Yes.

2 Q And it's correct that Bill Burke did not have  
3 that type of clearance?

4 A I don't know exactly what clearance Bill Burke  
5 had, so I can't answer that question.

6 Q Do you know who U.S. SOCOM Assessment Directors  
7 are?

8 A Yes.

9 Q Can you explain what they do?

10 A Off the top of my head, no. I forget their exact  
11 role in SOCOM.

12 Q Do they prioritize in resource funding?

13 A I believe that's correct, but, again, I'm not  
14 sure.

15 Q Do you know who prioritizes SOCOM requirements to  
16 include acquisition requirements?

17 A What person or group or --

18 Q Person or what position.

19 A It's decisions made through the chain of command

20 depending on the size of the program or characteristics of  
21 the program. It's at different levels within the  
22 government.

23 Q Do you know what an assessment director is?

24 A I remember -- I used to work somewhat with them  
25 at SOCOM or they were part of the acquisition function, but

### D & D Reporting Services

1 I don't recall off the top of my head what their exact  
2 duties were or what the interaction was. It wasn't someone  
3 I had daily contact with.

4 Q Do you remember or do you know whether or not a  
5 program manager can change a U.S. SOCOM priority without  
6 coordinating with the end users at the units?

7 A No. The end users are the ones who determine the  
8 priority. They say what they need to fight the wars and  
9 then that works up through the system and then the program  
10 mangers are -- their responsibility is to get the material  
11 solution to meet that requirement.

12 Q Well, let me ask you this. Could a contractor  
13 like Bill Burke change priorities for SOCOM?

14 A You would really have to ask his chain of  
15 command, but from my understanding, no. His role was to --  
16 again, my understanding, was to brief the Foreign  
17 Comparative Test Program to the personnel who participated  
18 in it, let him know what it was about and then help with  
19 the process of fulfilling the program.

20 MR. MCGUIRE: Can we go off the record a second.

21 (At this time a brief discussion was

22 held off the record.)

23 BY MR. MCGUIRE:

24 Q You will have to excuse me, Mr. Jones, that this

25 is extremely confusing for me, so I have to sort this out.

D & D Reporting Services

1 You were a Program Manager, correct?

2 A For Ammunition, yes.

3 Q And Bill Burke was, basically, a contractor? We  
4 discussed that, correct?

5 A Yes.

6 Q So as a Program Manager, could a contractor  
7 change your priority? Would they be able to influence  
8 that?

9 A Well, it wouldn't be my priority. It would be  
10 the overall acquisition system priority, but his role -- my  
11 interactions with him was, he'd ask if there were any  
12 programs that I, as a member of P.S.O.P., wanted to  
13 nominate for an S.E.T. (phon) program, he would say, Here's  
14 the forms you have to fill out and the documentation you  
15 have to get. I had taken over some programs from the  
16 previous person who did it and was working with Bill Burke  
17 on executing those efforts.

18 Q So could Bill Burke -- was he in a position to  
19 secretly change acquisition priorities for SOCOM?

20     A    You would have to ask his chain of command,  
21   because once it got out of the D.E.O. and into the S.E.T.  
22   cycle up through Dr. Uhler, that was another phase of the  
23   program.

24     Q    So I'm going to ask you this next question.  
25   Could Bill Burke submit a different proposal list for

D & D Reporting Services

1 FCTDAC (phon) to OSD for SOCOM? Did that make sense to  
2 you?

3 A Once he talked to the different P.E.O.s and got  
4 nominations for programs and worked that with his chain of  
5 command. How they did that and what got sent forward, I'm  
6 trying to think if I ever saw a copy of what went forward  
7 versus what came back approved. I don't recall.

8 Q But if you tried to submit a different proposal  
9 list, wouldn't a program manager have to know that if Bill  
10 had --

11 A No, because the program managers and the P.E.O.'s  
12 submitted their programs and it got rolled up into an  
13 overall SOCOM list based on SOCOM priorities. It should  
14 not be able to get past his chain of command as it went  
15 forward, but he would integrate -- the number one priority  
16 for P.E.O.S.P. or P.E.O. Aviation or any of others may not  
17 be the number one priority for SOCOM.

18 Q Let me ask this. This is what I'm trying to get  
19 at. Tom Spellissy had a company called S.D.I. Worked

20 through Jacobs and you used him to help you in this trip to

21 Norway, correct?

22 A I used the services, yes.

23 Q And he had a classified clearance and he had

24 access and the certain badge to have access on base,

25 correct?

### D & D Reporting Services

1 A Yes.

2 Q And Bill Burke did not have the same access?

3 A Well --

4 Q He had less of an access then Colonel Spellissy,  
5 is that correct?

6 A I couldn't tell you for sure, but Bill Burke did  
7 not have -- to the best of my knowledge, Bill Burke did not  
8 have the same level of access as Colonel Spellissy.

9 Q So it would be illogical for Colonel Spellissy to  
10 try and conspire with Bill Burke to get weapons purchased  
11 through SOCOM because he wouldn't have even as good as an  
12 access as Colonel Spellissy had by himself, isn't that  
13 correct? In other words, he was a low level contractor?  
14 There would be no reason to conspire or bribe a low level  
15 contractor?

16 A That's something I really can't talk about  
17 anything -- what may or may not have been done. Bill  
18 Burke, his responsibilities were such that his oversight on  
19 his side of the SOCOM acquisition chain should have negated

20 the probability of anything like that happening, but that  
21 was something outside of the P.E.O. chain. That was the  
22 next level up.

23 Q I'm going to ask you a couple other questions  
24 here. Is there a Test Director at SOCOM?

25 A There is an organization that monitors testing,

D & D Reporting Services

1 evaluates tests. I mean, Director means different things.

2 Q Who is responsible for conducting the testing of  
3 the equipment for SOCOM?

4 A Various organizations. It depends on what you  
5 are testing. Sometimes SOCOM used it's own organic assets.  
6 Sometimes it would have a contract with the Army, Navy, Air  
7 Force to use their facilities. Depending on the system and  
8 what you're doing, it can take a lot of time and spend a  
9 lot of money.

10 Q Well, the testing would be done and if approved  
11 then that would lead to a request for that weapon, is that  
12 correct?

13 A The acquisition system, the way it's designed to  
14 work is, the end user will develop a requirement for a  
15 system. Say a new gun. A new Jeep. A new radio. A new  
16 anything. Actually, what it's supposed to do is develop --  
17 we need to be able to talk a hundred miles on the radio.  
18 If that gets approved, then acquisition personnel will go  
19 out and look if there's a system that does that and see if

20 it meets military requirements or if there's not one, they

21 will initiate a program to build one.

22 Q My question is this, the end user conducts a

23 testing of the equipment, correct?

24 A No.

25 Q No?

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1     A   No. It's a whole separate organization. An  
2 acquisition system called Integrated Product Teams --  
3 there's acquisition folks. There's logistics folks.  
4 There's testers. There's end users with their  
5 requirements. There's all kind of different organizations  
6 and they discuss the system and how it's performing.

7           First you have to get requirement approved and  
8 you have to get money to either buy it or develop that  
9 requirement, that system, and then you've got to do testing  
10 to make sure it's all safe and suitable and does the  
11 mission it's designed to. You don't want something that  
12 works fine except in cold weather or except at high  
13 altitude. So they test it. The people that do the test  
14 are a whole different group than the end user or the  
15 Acquisition Program Management folks.

16     Q   I'm not sure if I asked this question. Is it the  
17 end users that perform the test?

18     A   No. They receive the final equipment and then  
19 they use it, but it's a specific testing organization that

20 tests things in accordance with standard protocols to make  
21 sure that it meets all the requirements.

22 Q Bill Burke would never conduct one of these  
23 tests, correct, in his position as a contractor?

24 A Not that I can think of, no.

25 Q And the testing equipment is not an acquisition

D & D Reporting Services

1 responsibility, is that correct?

2 A It's part of the -- acquisition is a huge term.

3 It's a -- the acquisition community is involved with the

4 testing of equipment, because if a system doesn't pass a

5 test then you can't buy it or if it almost passes, but

6 needs some refinements, then work on getting those

7 refinements. Make something a little sturdier or give

8 longer range or something -- but there's actual independent

9 test organizations who do the testing to make sure that the

10 acquisition side is buying the equipment that's needed.

11 Q But what you just said, Bill Burke could never

12 assist or help with because he has nothing to do with the

13 testing of the product, correct?

14 A Correct. He's not part of the test cycle.

15 Q So he's not in a position to say the test passed

16 when they don't pass, correct?

17 A I can't think of him being in that position, no.

18 Q Let me ask you this. While you were a Program

19 Manager for Ammunition at SOCOM, did you or your

20 contracting officer ever sign a contract with NAMO for a 70

21 Millimeter Warhead S.E.T.?

22 A No. I started working the S.E.T. program and

23 started running into contract issues and never got into the

24 formal contract negotiation phase --

25 Q How did your job as Program Manager for

D & D Reporting Services

1 Ammunition terminate or end?

2 A Because of my support for the contract with  
3 S.D.I. for Sverdrup for the Europe trip, my employment at  
4 SOCOM was terminated.

5 Q Because of your support of Colonel Spellissy?

6 A Support of the contract, yes.

7 Q To have him go with you and save two million  
8 dollars for the U.S. Government.

9 A Yes. A program that was important to the troops  
10 in the field and I know that because I had been in Iraq the  
11 month before talking to them.

12 Q In October of 2005?

13 A I spent two weeks with Colonel Spellissy filling  
14 equipment the 16th through the 28th of October and when we  
15 weren't filling equipment, I was talking to Senior N.C.O.'s  
16 and Company Grade Officers about their requirements.

17 Q So who made the decision to terminate your  
18 position as Program Manager because of your support of the  
19 contract with S.D.I. and Colonel Spellissy?

20 A That would be Chief of Staff of SOCOM.

21 Q Who was that?

22 A I forget the name now. Whoever was Chief of

23 Staff at --

24 MR. MCGUIRE: Give me just one second.

25 BY MR. MCGUIRE:

D & D Reporting Services

1 Q Did you have a personal conversation with this  
2 person?

3 A No.

4 Q How were you informed of this termination of your  
5 position?

6 A I was told by Dr. Uhler.

7 THE COURT REPORTER: Could you spell that name  
8 for me, please?

9 THE WITNESS: U-H-L-E-R, I think.

10 BY MR. MCGUIRE:

11 Q What did Dr. Uhler tell you?

12 A That as my support for the contract, I was no  
13 longer needed at SOCOM.

14 Q Did he -- I mean, was it an eight second  
15 conversation like you just said or did you have a longer  
16 conversation with him?

17 A It was a couple minutes.

18 Q Did he ask you any questions?

19 A No.

20 Q He just said that because of your support, you

21 were no longer needed?

22 A Because of my support for the -- well, he had

23 given me a -- I think it was a one page document signed, if

24 I remember right, by the Chief of Staff and said because of

25 my support -- actually, it was -- let me make sure I get

D & D Reporting Services

1 this right. Based on I.G. findings for my support for the  
2 contract, my employment at SOCOM was terminated.

3 Q Did you have any appeal rights under that?

4 A No. I called Colonel Klewisky (phon) the next  
5 day and ask to submit a rebuttal. He said no.

6 Q He wouldn't let you?

7 A No.

8 Q Did you ever tell anybody that that trip saved  
9 the U.S. Government two million dollars because Colonel  
10 Spellissy was there?

11 A I don't remember if I did. I'm not sure if that  
12 question was asked. I would think it came up somewhere  
13 during the conversation, but, again, it's been two and a  
14 half, three years since those interviews and I can't  
15 remember what was said or what was asked.

16 Q Around what time was it when you were terminated,  
17 your position as the Program Manager for Ammunition?

18 A June of '05.

19 Q What did you do next for work after that position

20 was terminated?

21 A I was technically working for Picatinny Arsenal.

22 I was basically on loan to SOCOM and I returned to

23 Picatinny Arsenal.

24 Q Do you have any idea why Dr. Uhler or any of

25 these people were so against the S.D.I. contract in Norway

D & D Reporting Services

1 that you supported?

2 A My understanding is, they thought the rate was  
3 too high.

4 Q And did anyone tell you what the rate was?

5 A They used the contract -- are we allowed to talk  
6 about rates and things?

7 MR. SPELLISSY: Yes. It's not classified.

8 THE WITNESS: It's not contract sensitive or  
9 anything?

10 MR. MCGUIRE: No.

11 MR. SPELLISSY: No.

12 BY MR. MCGUIRE:

13 A They said the rate of \$243.00 was substantially  
14 higher than the normal rate.

15 MR. SPELLISSY: Can I explain something real  
16 quick?

17 MR. MCGUIRE: Yes. Off the record.

18 (At this time a brief discussion was  
19 held off the record.)

20 BY MR. MCGUIRE:

21 Q So you're telling me that they didn't think that  
22 the rate of \$243.00 an hour was correct. Was there anyone  
23 else available that could have provided the same type of  
24 expertise that Colonel Spellissy did for that trip?

25 A Not to my knowledge. He had specific knowledge

D & D Reporting Services

1 and skills that were useful in the meetings with the first  
2 company.

3 Q And, again, like you had stated, that specific  
4 knowledge and skill saved the United States Government two  
5 million dollars, approximately?

6 A Approximately.

7 Q Stan Hivhsmith, was he disciplined as well with  
8 respect to the contract with S.D.I.?

9 A I don't know exactly what happened after I left.  
10 You would have to ask the other folks.

11 Q Did he leave there around the same time?

12 A Not to my knowledge, no.

13 Q How about Captain Huss? Was he disciplined at  
14 all that you were aware?

15 A Nothing that I know about.

16 Q Are you aware of anyone else that was interviewed  
17 with respect to either this contract with S.D.I. or the  
18 investigation of Colonel Spellissy?

19 A Not sure who all was interviewed. After the

20 first meeting with D.I.G., it was an open investigation and

21 do not discuss it.

22 Q D.I.G. told you not to discuss it?

23 A Yes.

24 Q Had you ever discussed it with anyone before or

25 after that point, this particular case?

D & D Reporting Services

1 A There wasn't a case before. It was a contract  
2 action that got executed and afterwards wasn't allowed to.

3 Q Do you feel that you did anything wrong that you  
4 should have been punished for?

5 A Personally, no.

6 Q Are you familiar with this -- well, I know you  
7 are because you already said so. Are you familiar with the  
8 SOCOM ALMBOS contract?

9 A Yes. I know it exists. I don't know all the  
10 details about it.

11 Q So Colonel Spellissy had an existing contract  
12 that was outstanding, SOCOM contract, by the P.E.O.S.P.,  
13 correct, in November?

14 A What do you mean, existing?

15 Q Was Colonel Spellissy on a standing SOCOM  
16 contract by the P.E.O.S.P. at the time of this November  
17 trip?

18 A There was the ALMBOS contract, yes, as a  
19 subcontractor under the ALMBOS, I believe, is correct.

20 That was approved just prior to the trip.

21 Q So it wasn't even you that approved it? It was

22 someone else, correct.

23 A No. I do not initiate it, write it or approve it

24 and, again, as far as I remember, I've never actually seen

25 the contract.

### D & D Reporting Services

1 Q Just so I'm clear, Colonel Spellissy was an  
2 approved SOCOM contractor with equal or greater access to  
3 the command than Bill Burke was, is that correct?

4 A Access to the command? I can't answer that.  
5 What does access mean?

6 Q Clearance to deal with the P.E.O.S.P.?

7 A I believe Colonel Spellissy and his role through  
8 S.D.I., I believe he had higher access as far as that's  
9 concerned, but you would have to get be a security person  
10 to verify that.

11 MR. MCGUIRE: Anything else?

12 MR. SPELLISSY: No.

13 THE WITNESS: Can I just say something?

14 MR. MCGUIRE: Sure.

15 BY MR. MCGUIRE:

16 A These answers are based on stuff that happened  
17 three years ago, as I mentioned at the start. I'm not sure  
18 if they are all a hundred percent correct. I may have made  
19 errors during this. I don't know if they're small or big.

20 These are -- my answers to the questions were the best I

21 remember given the time difference.

22 Q Well, just so we are clear, the important thing

23 is that you did speak to Special Agent Calvert, which you

24 answered yes. You had his business in your pocket. That's

25 true, number one. Number two, that Colonel Spellissy was

D & D Reporting Services

1 not in the meeting when the 70 Millimeter Warhead was  
2 discussed in Norway, which you answered as correct. You  
3 specifically remembered it because he excused himself even  
4 though you don't recall the reason he excused himself for  
5 that meeting, correct?

6 A Yes.

7 Q Real simple.

8 A Unless my mind is playing tricks on me. I don't  
9 think it is, but, best I can remember. I don't remember  
10 him saying why or he may have said and I forgot, but the  
11 best I remember, he left. He said, I'm out of here or  
12 something. I just want to verify whoever else was in the  
13 meeting can either verify that or say that my memory is not  
14 what it should be.

15 Q And also that he was a contractor for SOCOM at  
16 the time existing through his ALMBOS contract and --

17 A Yes. The contract was approved. Initially, I  
18 don't know if it's something I heard or was told, but for  
19 some reason I think he was going to be a government

20 contractor or consultant for all three companies that we  
21 visited. Then he said before the NAMO was in effect, I'm  
22 not a government consultant during our discussions with  
23 NAMO, so I took that as he's not a government contractor  
24 for his part because everything was going off of verbal --  
25 or most of it was verbal instructions and phone calls and

### D & D Reporting Services

1 things.

2 MR. MCGUIRE: Okay. Thank you. I don't have  
3 anything else.

4 (At this time the proceedings ended at  
5 approximately 4:30 p.m.)

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## D & D Reporting Services

1 CERTIFICATE OF REPORTER

2

3

4 STATE OF FLORIDA )

5 COUNTY OF PINELLAS )

6

7 I, KIMBERLY HAMMOCK, Court Reporter, certify

8 that I was authorized to, and did stenographically, report

9 the foregoing sworn statement and that the transcript is a

10 true record of the testimony given by the witness.

11 I further certify that I am not a relative,

12 employee, attorney or counsel of any of the parties, nor am

13 I a relative or employee of any of the parties' attorneys

14 or counsel connected with the action, nor am I financially

15 interested in the action.

16 Dated this 21st day of December, 2007.

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**KIMBERLY S. HAMMOCK**

22

**COURT REPORTER**

23

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25

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