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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 98-761-CIV-MOORE

MARC M. HARRIS ET CIE, S.A., et al,

Plaintiffs,

vs.

DAVID E. MARCHANT, et al,

Defendants.

-----/

150 S.E. 2nd Avenue  
Suite 1011  
Miami, Florida  
Tuesday, 9:00 a.m.  
December 22, 1998.

DEPOSITION OF DAVID E. MARCHANT

Taken on behalf of the Plaintiffs before Bonnie  
L. Winkelman, Shorthand Reporter and Notary Public  
for the State of Florida at Large, pursuant to a  
notice of taking deposition filed in the above  
cause.

24

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218

1 APPEARANCES:

2

3 STRIP, FARGO, SCHULMAN & HOPPERS, by

4 A.C. Strip, Esq.

5 Attorneys for Plaintiffs.

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8 ARAN CORREA & GUARCH, P.A., by

9 J.M. Guarch, Esq.

10 Attorneys for Defendants.

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13 INDEX

14

15 WITNESS EXAMINATION BY PAGE

16

17 David Marchant Direct Mr. Strip 221

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219

1 Therefore:

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3           DAVID E. MARCHANT

4 was called as a witness and having previously been

5 sworn, was examined and testified further as

6 follows:

7           MR. STRIP: The record will indicate that

8 we have this morning given a copy of the fax

9 transmission I received and I advised counsel I

10 don't have the original with the binding and

11 original signature, which will be made available if

12 you wish. I have every reason to believe that is an

13 accurate fax copy of the original. It is given with

14 the understanding that it is not being shared with

15 third parties or used for publication, unless we  
16 receive 14 days notice in advance, which gives us an  
17 opportunity to seek any sort of protective order, if  
18 we choose to do so at that time.

19 MR. GUARCH: I assume that that limitation  
20 of not sharing it with a third party does not  
21 include any third party that may be used in  
22 conjunction with this litigation?

23 MR. STRIP: I should have said that.

24 MR. GUARCH: To the extent it may be an  
25 expert or any other person that may evaluate it.

220

1 MR. STRIP: We have done everything except  
2 identify what it is. It is entitled Report of  
3 Consolidated Financial Statements of Marc M.  
4 Harris -- I will give you the short version -- and  
5 Subsidiaries, December 31, 1997 from an accounting  
6 firm in Servicios Profesionales, N.A.

7 MR. GUARCH: This would be the only  
8 document or disclosure of any kind that we have  
9 received from the Plaintiffs and I would like to get

10 a commitment from you as to when we could get the  
11 required disclosure and that way if we get it,  
12 fine. If we don't, I can feel without any further  
13 adieu that I can go to court to compel it. Not that  
14 I think it will be necessary to do that, but just  
15 for purposes of getting it on the record.

16 MR. STRIP: We acknowledge that we are  
17 overdue in providing items to you, part of which was  
18 we were not sure where this deposition would lead.  
19 We will by seven days from today, which would be the  
20 29th, call it the 30th at the latest, provide you  
21 with a witness list by fax or courier service,  
22 similar to what you have provided us with names and  
23 information and provide you all relevant exhibits  
24 that we would be required or want to exchange in  
25 conjunction with this litigation. We will also

221

1 pledge to update as the situation calls for it.

2 MR. GUARCH: Do you think it would be too  
3 much of a burden to do that by the end of the  
4 business day on next Tuesday? The reason for that,  
5 if it is Wednesday, in effect, it goes on the

6 through the end of the year and it will be the 4th  
7 before we have anything. Can we do that?

8 MR. STRIP: We will pledge to have it at  
9 the end of the business day on Tuesday.

10 MR. GUARCH: Thank you.

11 DIRECT EXAMINATION (continuing)

12 BY MR. STRIP:

13 Q. Let the record show we are resuming about  
14 9:20 on Tuesday morning.

15 Mr. Marchant, do you know a Robert Payne  
16 or Bob Payne, a former employee of the Harris  
17 company?

18 A. When you say do you know, do I know of the  
19 existence?

20 Q. Let's start with that, yes.

21 A. I do know of the existence of a Bob Payne.

22 Q. Have you ever had the opportunity to meet  
23 with Bob Payne?

24 A. I have not had the opportunity to meet  
25 with Bob Payne.

1 Q. Have you ever spoken with Bob Payne on the  
2 telephone?

3 A. I cite journalistic privilege.

4 Q. Have you ever communicated with Bob Payne  
5 by a letter as in a postal service type letter?

6 A. Any communications I may have with people  
7 who help me with stories must remain confidential.

8 Q. Explain to me why there is a privilege  
9 when I asked if you communicated with him? I am not  
10 asking for your source or what you may have said or  
11 he said. I am merely asking if you have  
12 communicated with him. How is that a privileged  
13 response?

14 A. I am not an attorney. I am not absolutely  
15 sure of the law. You are asking me for information,  
16 which may or may not identify a source of my story.

17 MR. STRIP: Jay, could you probably  
18 respond to that? If I asked about anybody and  
19 everything, I think if I asked him about whether Bob  
20 Payne helped or what, why don't we have a right to  
21 know whether or not he communicated with some of our  
22 employees or former employees? That is your call.

23 MR. GUARCH: What is the purpose for  
24 asking the question?

25 MR. STRIP: Part of discovery.

1 MR. GUARCH: It will ultimately lead to  
2 the question whether that individual is a  
3 confidential source.

4 MR. STRIP: If I pushed it, eventually it  
5 could lead to that. In the meantime I am trying to  
6 determine to what extent he has had contacts with  
7 our employees.

8 THE WITNESS: You are trying to identify  
9 my sources. I speak with people as a journalist on  
10 a confidential basis. I have supplied you with a  
11 list of witnesses who can support the article that  
12 has been disputed. I will not give up sources who I  
13 have spoken with on a confidential basis. You could  
14 go through a long list of names and say have you  
15 spoken with him or her. I could say no, I haven't  
16 spoken with that person, no, I haven't spoken with  
17 that person. If you asked me another person I have  
18 spoken with, I would say I cite journalistic  
19 privilege. It doesn't take a rocket scientist to  
20 figure out that that person is more than likely to

21 be a source. I am not going to sit here today and  
22 give up sources of who I spoke with on a  
23 confidential basis. I will not answer any questions  
24 that give up sources. It is a breach of trust on my  
25 part. This is something I take extremely seriously

224

1 as a journalist.

2 Q. Suppose for a moment I asked you have you  
3 ever spoken with Beth Ann Grimm, what would your  
4 answer be?

5 A. I feel I am in a difficult position. You  
6 could go through a long list of names and --

7 MR. GUARCH: I am going to go ahead and  
8 let him cite journalistic privilege. If you want to  
9 take it up in court, you can do that. I did a  
10 little work last night. I have come to the  
11 conclusion that the privilege is strong in the State  
12 of Florida. The case of Plages (phonetic) and Time,  
13 Inc. vs. Horn, First District Court of Appeal case,  
14 426 So.2nd second 1234. I think those questions  
15 that go to the issue as to who he spoke to and  
16 didn't speak to are protected under that. This is

17 an issue or lawsuit wherein you have sued him for  
18 liable. I just don't see that these questions are  
19 not protected by the privilege.

20 MR. STRIP: Let's say I ask him if he has  
21 spoken with Beth Ann Grimm.

22 MR. GUARCH: Ask him about the witness  
23 list and the documents, which would serve to provide  
24 a defense in this case. That is what this really is  
25 all about.

225

1 THE WITNESS: Ask the people you have  
2 spoken with whether they have spoken with me.

3 Q. (Mr. Strip) We will do that too. Part of  
4 taking a deposition is to corroborate testimony.

5 A. I have given you a list of witnesses who  
6 can support what I have written in the article. I  
7 will not give up my sources that spoke to me on a  
8 confidential basis as a journalist.

9 MR. GUARCH: What he is saying, correct me  
10 if I am wrong, the questions you are asking are  
11 doing nothing other than asking him to disclose his

12 confidential sources, although you are doing it in a  
13 creative and lawyerly way. I appreciate it, but it  
14 is his position.

15 MR. STRIP: He may have spoken to Bob  
16 Payne who told him to go fly a kite.

17 MR. GUARCH: That wouldn't be anything --

18 MR. STRIP: That is not a confidential  
19 source.

20 MR. GUARCH: It also wouldn't be anything  
21 that is reasonably calculated to lead to admissible  
22 evidence either.

23 MR. STRIP: Only from the standpoint if we  
24 discover that he has called 19 of our employees, I  
25 want a jury to know that. If he has called 20 of

226

1 our customers --

2 THE WITNESS: Why don't you ask me how  
3 many employees of the Harris Organization I called.  
4 That would clear up that question.

5 MR. STRIP: I was getting to that as a  
6 matter of fact.

7 MR. GUARCH: I understand that. It would

8 seem to me that question and that issue is one that  
9 you can obtain by alternative means. That is  
10 exactly what the privilege is about. You have to  
11 satisfy a threshold question, which is, could you  
12 not have obtained that by alternate means? Show us  
13 that you have made those efforts and how you are not  
14 able to.

15 MR. STRIP: Depositions also serve an  
16 additional purpose, that is to corroborate, to  
17 determine the credibility of the witness, etc.  
18 Let's not beat it to death. We won't be out of  
19 here.

20 THE WITNESS: My understanding is that the  
21 Harris Organization has fairly recently subjected  
22 some of its senior employees to lie detector tests  
23 for purposes of trying to find out who may or may  
24 not have been giving me information. I believe the  
25 questions you just asked are designed to find out

227

1 who my sources are.

2 MR. GUARCH: For the record, A.C., you can

3 move on, if you choose to. Specifically as it  
4 relates to prevailing law, the reason why I believe  
5 that this is troublesome, because this is  
6 information that can be obtained by alternative  
7 means. It may be a relevant and compelling reason  
8 for you to have it, such as wanting a jury to know  
9 it, but I think until we get over obtaining it  
10 through alternative means, that is entirely what the  
11 privilege is there to do.

12 Q. (Mr. Strip) Let's move on. I appreciate  
13 your comments.

14 Are you acquainted with Carlos Antola?

15 A. This is really leading down the same path.

16 Q. I don't know who Carlos Antola is. I  
17 asked if you are acquainted with him. I don't know  
18 who he is. His name has come up.

19 A. Right. This is all leading down the same  
20 path, trying to identify my sources. I have given a  
21 list of witnesses who can prove what I reported. I  
22 don't really understand why you need to know who my  
23 sources were for my articles, because I am not going  
24 to give them to you.

25 Q. I am not looking for sources. Let's move

1 on. You are citing journalistic privilege?

2 A. That is correct.

3 Q. I believe we have established an attorney  
4 by the name of Mr. Hart who was a corporate lawyer  
5 who prepared the subject incorporation of your  
6 company. Is his first name David?

7 A. David, yes. I believe the middle initial  
8 may be G.

9 Q. He is a practitioner in the Miami area?

10 A. Yes.

11 Q. Mr. Marchant, do you file United States  
12 income tax returns?

13 A. I do.

14 Q. Have you filed them for the last two  
15 years?

16 A. I filed -- all the returns I have filed  
17 have been in compliance with what has been required  
18 of me.

19 Q. That is not my question, though. The  
20 question is have you filed federal income tax  
21 returns for the last two years?

22 A. My accounts are handled by somebody who

23 takes care of the appropriate filings.

24 Q. Do you have a copy of what you have filed  
25 by way of tax returns in the last two years?

229

1 A. I am sure my office must have copies.

2 Q. May I also assume you file a separate tax  
3 return for your corporation?

4 A. I do not handle my taxes, but I believe we  
5 file corporate tax returns, personal tax returns.

6 Q. Would you have copies available of both  
7 your personal and corporate tax returns?

8 A. We have copies, I would imagine.

9 Q. That is all I am asking.

10 A. I do pay my U.S. taxes.

11 Q. That was not the question. That is all  
12 right. I am happy to hear that. As a U.S. citizen  
13 I am happy to have the contribution.

14 MR. GUARCH: Let's not misinterpret that  
15 this in any way is an agreement we are going to  
16 produce his tax returns.

17 THE WITNESS: I am a UK citizen.

18 Q. (Mr. Strip) Yes, I know. Do you have a

19 lease with your landlord or with Kroll?

20 A. No.

21 Q. Do I interpret that to mean you are on a  
22 month-to-month arrangement, if you know what the  
23 term means?

24 A. I would say you couldn't say that it was a  
25 month-to-month arrangement, as opposed to a

230

1 day-to-day arrangement, week-to-week, year-to-year  
2 arrangement. I don't have -- I don't know how you  
3 derive that conclusion.

4 Q. You have no written document that assures  
5 you any particular length of time?

6 A. Not that I can recall, no.

7 Q. Can you please give me a narrative of how  
8 your negotiations with Kroll Company, which has a  
9 longer name now, resulted in your obtaining the  
10 premises on a rent free basis?

11 MR. GUARCH: Objection. Asked and  
12 answered. We went into that yesterday.

13 MR. STRIP: We went into he didn't pay

14 rent. I am now asking about the negotiations, if

15 any, that led up to that.

16 MR. GUARCH: Same objection. You can

17 answer the question, David.

18 THE WITNESS: Sure. I mean the background

19 to my relationship with Kroll is that when I was a

20 journalist with the Bermuda Sun in Bermuda, where I

21 worked at the Bermuda Sun for, approximately, two

22 years from approximately the beginning of '94 to the

23 end of '95, occasionally Tom Fedorek, who works for

24 the Kroll office in New York would call and say,

25 what do you know about this person? What do you

231

1 know about that person? Have you written about it?

2 I maybe had two, three conversations with him during

3 my entire time in Bermuda. If I had written a story

4 about somebody I would fax it up to him. I don't

5 believe any charge was made on my part. I just

6 looked upon it as establishing a new contact. When

7 I left Bermuda and I was forming this company I

8 called Mr. Fedorek and said, look, this is what I am

9 doing, you know, I am publishing newsletters,

10 compiling a data basis, just generally selling  
11 information on the Bermuda Caribbean region. Is  
12 this something that would interest you? Do you have  
13 any suggestions? Could we enter into a possible  
14 business relationship? He suggested I speak with  
15 the Kroll people in the Miami office, which handles  
16 Latin America and the Caribbean. I flew from the UK  
17 to Miami for the primary purpose of having lunch  
18 with the people here and we got on quite well. They  
19 thought what I did in terms of the data bases could  
20 be something that would be useful to them. That is  
21 the background to the relationship.

22 Q. May I take it from that conversation they  
23 offered you a space on the subject floor?

24 A. A self-contained place with my own phone  
25 lines, fax lines, modem lines.

232

1 Q. Any paperwork or letters where they  
2 granted the use of that space? Any written  
3 material, confirming letter of any sort?

4 A. I couldn't answer that with any

5 certainty.

6 Q. Let me call your attention to a talk show

7 in October of 1998, just a few months ago. I think

8 the party's name is Jeff.

9 A. Rense.

10 Q. Do you recall having communications with a

11 Mr. Rense?

12 A. I never heard of Mr. Rense until he sent

13 me an E mail. It was either at the end of September

14 or end of October. I can't recall, but I have a

15 copy of the E mail in my office. He initiated

16 contact with me. He said he recently had Mr. Harris

17 on the program. He conducted an interview with him,

18 which I believe was aired over the radio waves and

19 it had come to his attention, and I don't know how

20 subsequent to that interview, that there were

21 certain allegations against Mr. Harris and if my

22 memory serves me correctly, he said if only

23 one-tenth of the allegations are true, then it is

24 basically something that my listeners should be

25 aware of.

1 Q. Did you respond to him?

2 A. He asked me if I had done a radio show  
3 before in that E mail. So I responded to him and  
4 said yes I had done radio before and there were  
5 allegations against Mr. Harris and I would be  
6 prepared to participate in a follow-up program.

7 Q. Do you know how he had your E mail address  
8 to initiate correspondence with you?

9 A. He sent the E mail not to me directly. It  
10 was to another E mail address used by my company.  
11 It is a general E mail address, which if people  
12 visit our web site, if they click on E mail it comes  
13 out to that E mail address, which is Info At  
14 Offshore Business.COM. He sent it to Info Offshore  
15 Business.COM. He may have done an internet search,  
16 but I don't know.

17 Q. Did you suggest to him in writing or  
18 otherwise that the Harris Organization was  
19 perpetrating a scam?

20 A. So he initiated contact with me. I sent  
21 him an E mail. I didn't hear anything from his  
22 offices for some time, several weeks, so I sent an E  
23 mail to his office inquiring whether they intended  
24 to do something on this, because I personally

25 considered it to be extremely irresponsible to have

234

1 Mr. Harris on his program promoting his products and  
2 services while there were some very serious  
3 allegations that Mr. Harris was misappropriating  
4 clients funds and engaging in a number of illegal  
5 acts. I received an E mail back from a lady. I  
6 considered it to be a very unprofessional E mail,  
7 where she didn't display a grasp of any of the  
8 pertinent issues involved with this situation. I  
9 believe that I sent her an E mail along the lines,  
10 that Mr. Harris is perpetrating a scam, I can't  
11 remember the exact words I used, and I thought it  
12 was very irresponsible of her not to publish a  
13 follow-up article to inform her listeners about some  
14 of the dangers of doing business with the Harris  
15 Organization.

16 Q. Do you recall using words such as  
17 perpetrating the biggest scam of all time? Biggest  
18 offshore scam of all time?

19 A. I may well have used that phrase.

20 Q. Do you believe, in fact, as you sit here

21 today that the Harris Organization is or was  
22 perpetrating the largest or biggest offshore scam of  
23 all time?

24 A. I believe that Mr. Harris is incompetent,  
25 so far as offering financial services offshore. I

235

1 believe that all the evidence points to the fact  
2 that the Harris Organization is committing a number  
3 of illegal acts and I do believe that the Harris  
4 Organization is committing one of the biggest  
5 offshore scams of all time.

6 Q. When you suggested to him, as you put it,  
7 that it was irresponsible to convey information to  
8 his listeners did you get a response?

9 A. Could you --

10 A. I believe you said something, you E mailed  
11 the lady and suggested they have certain  
12 responsibility. Those are my words. Did you hear  
13 back from them?

14 A. No. Jeff Rense contacted me and said he  
15 wanted to do a follow up and I sent an E mail and

16 said, yes, I was prepared to do a follow up. I did  
17 not hear anything for several weeks. I initiated  
18 the second wave of contact. I exchanged, I believe,  
19 at least two E mails with a lady whose name escapes  
20 me. She did not have a clue what she was discussing  
21 in the way of E mail.

22 Q. Does the name Mary refresh your memory?

23 A. I can't recall the name. She wrote one E  
24 mail saying, oh, don't you know something along the  
25 lines that Harris is involved in litigation. She

236

1 didn't even know that the litigation was with me. I  
2 wrote back something along the lines, yes, of course  
3 I know he is involved in litigation, because I am  
4 the defendant. She didn't have a clue about what  
5 she was talking about.

6 Q. Do you recall the Rense Organization  
7 sending you an E mail saying stop sending us  
8 communications?

9 A. This lady, I believe, in one of her E  
10 mails may have indicated that she didn't want to  
11 continue the discussion and I believe after that I

12 may have sent one E mail and that would have been  
13 the end of our communication. I realized they were  
14 going to act completely irresponsible and didn't  
15 care enough about their listeners to give them the  
16 other side of the story, which personally extremely  
17 irritated me.

18 Q. Still the same question, which hasn't been  
19 answered, do you remember getting a request by E  
20 mail from the Rense people?

21 A. I have answered the question.

22 Q. That you do not send any further  
23 correspondence?

24 A. I answered the question.

25 Q. I didn't hear a yes or no.

237

1 A. I answered the question. I could not  
2 answer specifically yes or no, unless I had a  
3 verbatim transcription of the exchange we had. I  
4 said to you in my answer that my recollection was  
5 that this lady did indicate that she did not want to  
6 continue correspondence on this issue. Whether she

7 used the phrase, please, never contact me again or  
8 whether she was less subtle than that I really don't  
9 know.

10 Q. This is the last question on the Rense  
11 matter.

12 Did you suggest to Rense or the lady you  
13 were communicating with that Marc Harris was a  
14 crook?

15 A. I may well have done that, yes.

16 Q. Do you believe he is a crook?

17 A. I believe Marc Harris is breaking a number  
18 of laws and I think that would make him a crook.

19 Q. You indicated yesterday that you believe  
20 that the Harris clients are defrauding the Internal  
21 Revenue Service?

22 A. I believe that some of the Harris clients,  
23 perhaps many of them are not declaring what they  
24 should to the IRS.

25 Q. Right. Which would be defrauding the

1 Internal Revenue Service, I presume?

2 A. I would say that is a reasonable

3 definition.

4 Q. Do you know any one client of Harris that  
5 is defrauding the IRS or not reporting income tax?

6 A. I have spoken with people who I believe it  
7 is reasonable to conclude that are probably  
8 defrauding the IRS, but they are not going to  
9 acknowledge that to me in communications.

10 Q. Without asking you to disclose your  
11 source --

12 A. I believe Mr. VanDyke, for example, may be  
13 doing that. I believe Mr. Vigna may be doing that.  
14 I have no evidence to support that. They have not  
15 indicated that.

16 Q. Why do you believe that Mr. VanDyke is  
17 defrauding the Internal Revenue Service?

18 A. Because the conversations that I have had  
19 with him over the phone, that we mentioned  
20 yesterday, were conversations the content of which I  
21 would describe as being slightly odd, where the  
22 initial contact that I made with him he was very  
23 interested in what I had to say. He wanted me to  
24 fax him documents. I may have asked him, would you  
25 like me to fax you some stories that I have written,

1 that Business Week has written, one or two  
2 supporting documents and he wanted that. He was  
3 interested in it. My recollection of the  
4 conversation with Mr. VanDyke is he actually started  
5 breathing rather heavily during the end of the  
6 conversation. I called him about a week to two  
7 weeks later and he basically gave me the impression  
8 that he wasn't a client of the Harris Organization.  
9 I think he said something like what has this got to  
10 do with me?

11 Q. So from --

12 A. If it had nothing to do with him, why did  
13 he want documents in the first place? If he  
14 genuinely wasn't a client of the Harris Organization  
15 one would imagine he would have said when I called  
16 him that he was not a client of the Harris  
17 Organization, what has this got to do with me, as  
18 opposed to wanting to receive my document.

19 Q. From these conversations and the substance  
20 you just related and the response of the individuals  
21 you have concluded or believed that they are --

22 A. There is a probability or likelihood that

23 that he would be defrauding the IRS.

24 Q. May be or are defrauding the IRS; what is

25 your belief?

240

1 A. My belief is that they are defrauding the

2 IRS.

3 Q. Without disclosing sources do you have any

4 evidence in your possession that indicates that any

5 one individual is in fact violating Internal Revenue

6 requirements?

7 A. You actually have evidence in your

8 possession that I gave you yesterday showing that

9 the Harris Organization puts out documents to

10 clients that seems to show them, in my opinion and I

11 am not an attorney, how to defraud the IRS. I have

12 had conversations with at least two people who I

13 have been told are clients of the Harris

14 Organization and they have been odd conversations.

15 They haven't said, yes, I am defrauding the IRS. To

16 the best of my knowledge they have not been

17 convicted of anything. There may be sealed

18 indictments against people outside of the country,  
19 American citizens, clients of the Harris  
20 Organization. I don't know. I don't expect people  
21 to admit to me that they are defrauding the IRS.  
22 Q. Let's listen to my question. Do you have  
23 any evidence to indicate any specific client by name  
24 is defrauding the Internal Revenue Service?  
25 A. I have been told that certain people

241

1 aren't disclosing to the IRS their revenue and they  
2 are clients of the Harris Organization. Do I have  
3 documentation or conclusive proof, no, I don't.  
4 Q. Without revealing your source, what client  
5 of the Harris Organization have you been told is  
6 defrauding the Internal Revenue Service by name?  
7 A. Tony Vigna was a name that was put to me.  
8 Q. There is one. Anybody else?  
9 A. I believe there is a likelihood that Mr.  
10 VanDyke, based on the odd conversations that I have  
11 had with him, may be another candidate.  
12 Q. I didn't mean to cut you off. My question  
13 was who else have you been told by name is a client

14 that is violating IRS regulations?

15 A. Mr. Gandolfi's name was given to me as  
16 somebody not declaring revenue for IRS purposes.

17 Q. Anybody else?

18 A. Not specifically that comes to mind at the  
19 moment.

20 Q. Mr. Vigna and Mr. Gandolfi, two people  
21 suggested to you as defrauding the IRS, to use the  
22 term loosely. Anybody else?

23 A. Not that I can specifically recall at this  
24 moment.

25 Q. Do you know of any Harris clients who have

242

1 been convicted of income tax evasion or failing to  
2 file proper returns, etc.?

3 A. Not that I can recall, no.

4 Q. Do you know of any Harris client who has  
5 been charged with failing to file appropriate tax  
6 returns or evading tax laws?

7 A. In the case of Mr. Vigna I am not quite  
8 sure whether there is a sealed indictment against

9 him. He is certainly terrified of returning to the  
10 U.S. He is under the belief, whether it is an  
11 accurate belief or inaccurate belief, that if he  
12 sets foot in the United States he may have some  
13 problems.

14 Q. From the information --

15 A. I don't know. The way the IRS works in  
16 many of these situations is they do file sealed  
17 indictments against people. They keep their  
18 investigation fairly secret. I do not know all the  
19 clients of the Harris Organization.

20 Q. From the information provided to you do  
21 you believe that -- the question however was do you  
22 know from the information provided to you and all  
23 your sources and without revealing sources, whether  
24 or not anybody has been charged by the Internal  
25 Revenue Service?

243

1 A. I do not have specific knowledge of  
2 clients that have been charged.

3 Q. As to Mr. Vigna you testified as to a  
4 possibility or perhaps a sealed indictment. Do you

5 have reason to believe, as you sit here, that in  
6 fact Mr. Vigna has an indictment sitting here  
7 somewhere in the United States?

8 A. I don't know. He has told people that he  
9 is extremely concerned about coming back to the  
10 United States. He is a bit unsure as to what would  
11 happen.

12 Q. You don't know as you sit here today as to  
13 whether or not there is such an indictment?

14 A. Maybe if Mr. Vigna returned to the United  
15 States the IRS could possibly charge him, if he  
16 committed any offenses. Maybe I could give you  
17 specifics.

18 Q. That was not my question. As we sit here  
19 today across from each other, do you know whether or  
20 not there is an indictment --

21 A. I do not know.

22 Q. That is fine.

23 A. Against Mr. Vigna.

24 Q. Does the name Thomas Horner mean anything  
25 to you?

1 A. It does ring a bell with me.

2 Q. How does it ring a bell?

3 A. I believe from memory that his name may  
4 have been given to me as a possible client or  
5 business associate of the Harris Organization.

6 Q. When it was given to you what, if  
7 anything, did you do with that name?

8 A. In the course of my research into the  
9 Harris Organization I have been given several names,  
10 some with telephone numbers and addresses, others  
11 not with telephone numbers and addresses. As a  
12 responsible journalist I have tried to contact as  
13 many people as I can trying to build up as clear of  
14 a picture as I can for purposes of my research. I  
15 may have spoken with Tom Horner. I may not. I  
16 can't tell you one way or another at the moment,  
17 because I have spoken with a lot of people over  
18 this.

19 Q. Do you keep notes as to people you called?

20 A. If they have anything to say, yes. If it  
21 is a conversation where somebody immediately makes  
22 it clear, for example, I have got nothing to say or  
23 this has nothing to do with me, no, I wouldn't make  
24 note of that.

25 Q. What if he hung up on you, as we often do

245

1 on MCI and AT&T inquiries, would you make a note at  
2 least that you contacted Mr. Horner and he hung up  
3 on me? That is a hypothetical. I am not suggesting  
4 that happened.

5 A. The name Tom Horner rings a vague bell.  
6 He may be somebody I may or may not have spoken  
7 with. I believe he is on this list I have of  
8 potential clients or business associates. You know,  
9 I can't really -- if he we had a conversation I  
10 can't recall the specifics of it and it really  
11 doesn't mean anything to me, which would indicate to  
12 me, because my memory is okay, which would indicate  
13 to me I may not have had sort of a conversation with  
14 him that sort of gave up any information I thought  
15 needed to be written down.

16 Q. What is your best estimate of how many  
17 clients of the Harris Organization you called?

18 A. Well, it is difficult to say. Some of  
19 them were denying they were clients of the Harris

20 Organization, even though we expected they were.

21 Q. How many calls did you initiate in your  
22 best estimate, you can give me a range, to persons  
23 you believed were clients of the Harris  
24 Organization?

25 A. I have attempted to reach several people.

246

1 I really can't guess. I will be attempting to reach  
2 several more during the course of my further  
3 research into Mr. Harris. I have a long list. I  
4 would say on the list there are 50, 60, 70 names. I  
5 intend to do everything I can to contact everybody  
6 on that list.

7 Q. For what purpose?

8 A. For the purpose of, one, defending this  
9 lawsuit. They are clients of the Harris  
10 Organization. They may well have been defrauded,  
11 based on all the evidence available and, secondly,  
12 for the purposes maybe writing a story.

13 Q. My question was what is your best estimate  
14 of the number of persons you believed to be clients  
15 you called so far -- let me finish the question.

16 A. I can't give you a estimate.

17 Q. Would you believe it was more than 20?

18 A. I really can't give you an estimate. That

19 is the only answer I can give you with any

20 sincerity.

21 Q. Now, you have a web site or web page that

22 people can, as we say, hit upon and read; is that

23 correct?

24 A. That is correct.

25 Q. I wasn't clear of your earlier testimony.

247

1 Is there one such page or two?

2 A. Web sites have many pages. One site.

3 Q. I meant to ask that. One web site, but

4 you also have more than one E mail address; is that

5 what I understood?

6 A. Yes.

7 Q. On your web site did you post such

8 comments as the fact that the Harris Organization is

9 perpetrating one of the biggest offshore scams of

10 all time?

11 A. Where are you quoting from?

12 Q. Your web site.

13 A. Which part of the web site?

14 Q. I don't know.

15 A. If you can't tell me where I am supposed

16 to have it on my web site, how can you expect me to

17 answer the question?

18 Q. Do you remember putting that type of

19 information on your web site?

20 A. I can't remember every single word I

21 posted on my web site.

22 Q. I am not asking you verbatim. I basically

23 asked you whether you put a statement on the web

24 site what you previously testified --

25 A. Unless you tell me on what part of the web

248

1 site or give me evidence of what you are alluding

2 to, how possibly can I answer the question?

3 Q. You don't recall what might have been put

4 on the web site?

5 A. On my web site we have an offshore forum

6 where people can exchange information, opinions,

7 ideas. Mr. Harris has posted messages on that web  
8 site. I believe other offices have posted messages  
9 on that web site. I post messages on that web  
10 site,, some of which are in connection with Marc  
11 Harris. The content of those messages I posted I  
12 couldn't tell you, but I have not taken any messages  
13 down, so they are there for everybody to see.

14 Q. Have you made any statements in writing  
15 verbally to any third parties indicating that the  
16 Harris Organization may be insolvent for as much as  
17 \$40 million? Do you recall saying that?

18 A. Saying it to who?

19 Q. Anybody.

20 A. I don't know. How can I possibly answer  
21 that question?

22 Q. You don't recall?

23 A. I don't recall. I might well have done  
24 that. My understanding is that the Harris  
25 Organization is insolvent by at least \$25 million

2 million. Who knows. Until a financial audit is

3 performed nobody news.

4 Q. Do you believe as you sit here today

5 Harris has a chronic liquidity problem?

6 A. Yes.

7 Q. Have you stated that to third parties to

8 your recollection?

9 A. Probably reported it in the newsletter.

10 Q. You, of course, have knowledge, we

11 established two people by the name of Bailey and

12 Sambrook. We talked about that. My question is

13 have you referred offshore business to Bailey and

14 Sambrook?

15 MR. GUARCH: Referred offshore business?

16 THE WITNESS: Can you be more specific?

17 Q. (Mr. Strip) Have you referred potential

18 clients to Bailey and/or Sambrook? Have you

19 recommended them to potential offshore clients?

20 Have you suggested to third parties that if they

21 have offshore business interests they do it with

22 Bailey and Sambrook?

23 MR. GUARCH: Object to form.

24 THE WITNESS: I am not exactly sure, but

25 I think possibly in one of the postings on the

1 offshore forum, which is part of my web site, my  
2 vague recollection is that somebody may have posted  
3 a message in relation to doing business in Panama.  
4 I may have suggested Trust Services, which is run by  
5 Mr. Bailey, Mr. Sambrook. I am not really very  
6 sure. It speaks for itself. All my postings are on  
7 my web site. I haven't written anything I am  
8 ashamed of or I feel is inaccurate. Nothing has  
9 been taken down. It is all there.

10 Q. Have you reviewed a financial statement of  
11 Trust Services, S.A. ever?

12 A. I don't recall.

13 Q. Are you in a position to tell us today  
14 whether you know they are solvent or insolvent?

15 A. I have received no indication at all that  
16 would indicate that they are insolvent or anything  
17 other than, you know, a normal business conducting  
18 their business normally.

19 Q. Do you have any information as to their  
20 solvency or insolvency?

21 A. I do not, no. I can't recall seeing any

22 statements. I have not heard any allegations about  
23 insolvency against that company.

24 Q. Are you familiar with whom their clients  
25 are?

251

1 A. Could you be more specific? Do I know who  
2 all the clients are, is that what you are asking  
3 me?

4 Q. Not all. Do you know some of the clients  
5 by name? I am not going to ask you names. Bear  
6 with me a minute, Jay.

7 A. I really don't have a detailed knowledge  
8 of Trust Services, S.A.

9 Q. Simple question. Do you know who any of  
10 their clients are, John Doe, John Smith, that is  
11 all?

12 A. I don't really know who their clients are.

13 Q. Do you have reason to believe that clients  
14 of offshore services are using offshore services for  
15 purposes of evading the Internal Revenue Service's  
16 tax regulations?

17 A. Clients of who?

18 Q. Trust Services.

19 A. I really have no idea.

20 Q. Do you know whether any of their clients

21 have been charged or convicted of U.S. Federal

22 Income Tax regulations?

23 A. Not that I know of.

24 Q. Fine. I only ask what you know. Do you

25 know if any of their clients have been convicted of

252

1 anything, including drug allegations?

2 A. I really don't know that much about the

3 workings of Trust Services, S.A., other than of a

4 general nature which includes knowing broadly what

5 they do and what services and products they offer.

6 Q. Do you have any idea how many such

7 offshore investment organizations there are similar

8 to the Harris Organization and Trust Services, Inc.,

9 etc.?

10 MR. GUARCH: Object to form.

11 Q. (Mr. Strip) Do you have any idea?

12 A. In the offshore world you have what I call

13 the legitimate offshore world, which is inhabited by  
14 competent professional qualified people who handle  
15 their clients funds in a responsible manner. Then  
16 you have what I describe as the sort of seedier side  
17 to which the Harris Organization belongs. That  
18 side, I would say, is probably in the minority.

19 Q. Do you have any idea how many such groups  
20 there are on both sides of that fence?

21 A. Are you asking me how many groups such as  
22 the Harris Organization?

23 Q. Total number of companies that do offshore  
24 services.

25 A. No. I have no idea. The offshore world

253

1 is a big world. There are many, many companies  
2 offering a variety of products and services.

3 Q. This is your area of specialization, I  
4 believe, as far as a journalistic approach?

5 A. It has been since 1990.

6 Q. I am asking you if you know how many  
7 companies there are that offer various offshore  
8 services? Hundreds of them?

9 A. I would say hundreds of companies.

10 Q. Without disclosing any sources have you

11 investigated any others besides the Harris

12 Organization?

13 A. I investigate offshore companies every

14 month.

15 Q. Have you reported on any others in the

16 last year besides the Harris Organization?

17 A. Yes, I have.

18 Q. Would those have appeared in your

19 newsletter?

20 A. In fact, several of them. They also all

21 got published in my newsletter in the same edition

22 of Offshore Alert that is in question here, March

23 30th edition, if you read the entire edition, if you

24 didn't stop short of the Harris story. Nevis Asian,

25 an offshore group based in the Caribbean Islands.

254

1 The gist of the story is that there are warrants out

2 of South America for the Head of the Nevis Asian

3 group, a man called Keith Leslie Kaye. I do

4 investigations more or less every month. That is  
5 mainly what people subscribe for. I did not single  
6 out the Harris Organization.

7 Q. Did you suggest to parties or on your web  
8 site that it would be good policy, to use my word,  
9 to steer clear of the Harris Organization for  
10 business purposes?

11 MR. GUARCH: Object to form.

12 THE WITNESS: I can't recall the postings  
13 on my web site. If you want me to present me with a  
14 posting I can verify it at a later date whether it  
15 was genuine or not.

16 Q. (Mr. Strip) You have no recollection?

17 A. Needless to say, anything posted on the  
18 web site was written in good faith by me.

19 Q. I am looking at something entitled Current  
20 News. Can you tell us what this is?

21 A. This purports to be a page of my web site  
22 or several pages of my web site.

23 Q. So would this have been something that was  
24 printed off your web site?

25 A. It would appear that it is. Without

1 reading ever word of it and checking with what is on  
2 my web site, I couldn't say with any certainty. It  
3 appears to be legitimately taken from my web site.

4 Q. Let me take you down to right in the  
5 middle of the page where it says Marc Harris  
6 latest.

7 A. Yes.

8 Q. Several officers had to undergo lie  
9 detectors tests to try to identify leaks of  
10 information.

11 A. Yes.

12 Q. Is that something that was reported to you  
13 by someone or is that something you know of your own  
14 knowledge?

15 A. I think it is fair to say it was leaked to  
16 me by at least two people.

17 Q. If I asked you who they were you would  
18 say?

19 A. I am not telling you. I am citing  
20 journalistic privilege.

21 Q. Is there something inappropriate about the  
22 use of lie detector tests, to your knowledge?

23 MR. GUARCH: Object to form.

24 Q. (Mr. Strip) Is there anything illegal

25 about the use of lie detector tests?

256

1 A. I don't know what the laws are in various

2 countries. It might be legal in one country and

3 illegal in another.

4 Q. Fair. Now, I notice that in some of your

5 answers yesterday and I believe in writing

6 occasionally you indicated that you were working in

7 Bermuda and you were, I believe the word you used,

8 kicked off the island?

9 A. That is correct.

10 Q. Were you actually kicked off the island or

11 were you denied a work permit?

12 A. There were a number of denials, which I

13 went through in great detail yesterday.

14 Q. Yes, we have that. I am asking you

15 whether you were actually told to leave?

16 A. I was asked to leave. I had at least one

17 letter from the Immigration Department saying I had

18 to leave by a certain date. I appealed that. I

19 believe I had another letter from the Immigration

20 Department. I had a visit by two immigration  
21 officers who I actually thought were Jehovah's  
22 Witnesses when they first arrived.  
23 Q. You left voluntarily at some point?  
24 A. It wasn't voluntarily, in the sense I  
25 wanted to remain on the island. They said that I

257

1 could not live or work there. I left the island  
2 just before the date that I had to leave. I had  
3 taken the appeal process the whole way through. I  
4 wasn't physically marched to the airport, no. If I  
5 over stayed my welcome, yes, I would have been.

6 Q. On one occasion did you call Marc Harris'  
7 father?

8 A. I called his office and tried to speak  
9 with Baum Harris, who I believe is Marc Harris'  
10 father.

11 Q. Why did you want to speak with Marc  
12 Harris' father?

13 A. Because I was interested in his business  
14 and I had been told --

15 Q. Whose business?

16 A. Mr. Harris' father's business and I had  
17 been told that the father had a business  
18 relationship with Marc Harris and I was trying to  
19 determine the exact nature of the business  
20 relationship to give me a better understanding of  
21 all aspects of the Harris Organization as part of my  
22 ongoing research.

23 Q. What is your understanding of the business  
24 in which his father is involved?

25 A. He wouldn't speak with me. I spoke with a

258

1 lady and Mr. Harris was actually shouting in the  
2 background to his secretary to get off the phone to  
3 me. I didn't really learn anything from him or the  
4 lady I spoke with.

5 Q. What is your understanding as to the  
6 nature of the business that his father is involved  
7 in?

8 A. My understanding, based on I believe  
9 downloading documents from his web site, is that he  
10 is in the business of helping U.S. taxpayers with

11 their tax returns. I think he offers some sort of  
12 consulting service that may be some level of  
13 protection or insurance involved in case people are  
14 audited by the IRS. This is just from memory.

15 Q. Do you know whether or not his father is a  
16 CPA?

17 A. Pardon?

18 Q. Do you know whether or not his father is a  
19 CPA?

20 A. I am not sure. To the best of my  
21 knowledge, I haven't written about Marc Harris'  
22 father, so I really haven't launched a full research  
23 into him. So I don't know that much about what he  
24 does.

25 Q. Did you follow up with any additional

259

1 calls to his father's office?

2 A. I can't recall how many times I called his  
3 father's office. My recollection is after the -- my  
4 recollection is that I only had one conversation of  
5 any length or substance with anyone from his office,

6 which was a lady, and I asked to speak with Mr.  
7 Harris, Sr. and he shouted while I was on the phone  
8 with her. She said hang on a minute. She  
9 presumably went to speak with Mr. Harris. She came  
10 back to me. We carried on a conversation for a  
11 matter of like 30 seconds or so. His voice was in  
12 the background. She said did you hear that? Did  
13 you hear that? I have to get off the phone with  
14 you. She more or less put the phone down.

15 Q. Did you attempt to call the father of Marc  
16 Harris at home or any place else?

17 A. I can't recall. I'm not sure I have his  
18 home number. I am not sure. As soon as it was made  
19 clear to me he wasn't going to speak to me I didn't  
20 persist and make what is regarded as nuisance calls  
21 to him, if that is where your line of questioning is  
22 going.

23 Q. That is exactly where I am heading. Do  
24 you know the name of the father's business? If I  
25 gave it to you, would you recall it?

1 A. From memory it might be Tax Services.

2 Q. Tax Resources.

3 A. Tax Resources sounds as if it probably is.

4 Q. Did you tell whoever answered the phone  
5 that you were doing a story on Tax Resources?

6 A. I can't recall the specifics of that  
7 conversation. The purpose of my call was to get  
8 further information with a view to possibly running  
9 a story. I don't recall ever running a story on Mr.  
10 Harris, Sr. I know from the way I generally  
11 operate, when I speak with people I tend to say,  
12 look, I declare who I am, I am a journalist and  
13 publish this newsletter. I am considering doing a  
14 story on this. They either speak with me or they  
15 don't. If they didn't want to speak with me, that  
16 was the end of the matter.

17 Q. Do you have any evidence or belief that  
18 that clients of Tax Resources are involved with the  
19 Harris Organization in any way?

20 A. I was told by at least one person that Tax  
21 Resources or Mr. Harris, Sr. did business with the  
22 Harris Organization. I am not sure where those  
23 inquiries ever went. I am not sure whether it ever  
24 led to a story. I can't recall ever doing a story  
25 on Mr. Harris, Sr. I could be wrong. Maybe in one

1 of my stories somewhere there was one line that  
2 mentioned him. I have never written any stories of  
3 any substance on Mr. Harris, Sr.

4 Q. Did you suggest to whoever answered the  
5 phone at Mr. Harris Sr's office that Tax Resources'  
6 clients were filing fraudulent tax returns?

7 A. I don't believe I ever uttered such a  
8 sentence. If you are going to produce anyone to  
9 suggest otherwise, I would call them a liar.

10 Q. Do you recall suggesting to whoever  
11 answered the phone that Marc Harris was a shoddy  
12 businessman?

13 A. No. I am almost certain I never uttered  
14 that comment.

15 Q. Did you suggest that Mr. Harris, Sr. was a  
16 shoddy businessman?

17 A. I am sure you would not have any  
18 difficulty obtaining a statement from maybe that  
19 lady saying I said this, this and this.

20 Q. That was not my question, though. My  
21 question was, Do you recall suggesting to that lady

22 that either Marc Harris or Marc Harris, Sr., let's  
23 call him, was a shoddy businessman?

24 A. No.

25 Q. I may have asked you this question. Have

262

1 you had any communications with Frieberg --

2 A. We went through that.

3 Q. -- in the last month or so?

4 A. I don't believe so. I seldom have any  
5 communications with Jeff Frieberg. I used him, to  
6 the best of my knowledge, twice to promote my web  
7 site. My web site hasn't been promoted for several  
8 months. I have never met Jeff Frieberg.

9 (Recess).

10 MR. STRIP: Gentlemen, correct me if I say  
11 this wrong. As a result of the conversation we had  
12 off the record we have agreed that we disagree on  
13 the propriety of my taking a series of questions as  
14 to potential assets of the deponent, Mr. Marchant.  
15 We believe it might be appropriate, since we claim  
16 punitive damages. Mr. Guarch would instruct his

17 client not to answer, an instruction which we would  
18 respect. Consequently, we will pass on going into  
19 that issue at this time, reserving the right at some  
20 future time, if we can satisfy that need or if there  
21 is a court ruling or otherwise to reopen the  
22 deposition for that line of questioning. Did I say  
23 it right?

24 MR. GUARCH: I think that is an accurate  
25 reflection of our conversation. I would say that I

263

1 would object to that line of questioning and were my  
2 objections and the basis therefore not agreeable to  
3 Mr. Strip, then, I think Mr. Marchant would be  
4 instructed not to answer those questions.

5 MR. STRIP: Which we would respect that  
6 instruction.

7 MR. GUARCH: We have gone through that  
8 basis and we agreed to disagree.

9 Q. (Mr. Strip) Mr. Marchant, I believe you  
10 indicated that your corporation in addition to you  
11 has one other employee?

12 A. That is correct.

13 Q. We got her name yesterday. I have the  
14 spelling that you put on the record.

15 Do you know her residence address?

16 A. Yes, I do.

17 Q. Could you give it to us, please?

18 (Discussion off the record.)

19 Q. We will withdraw the question. There is a  
20 person by the name of John Stitt, spelled

21 S-T-I-T-T. Is he with the Frieberg agency; do you  
22 know? Do you know who the individual is?

23 A. I know nothing about Jeff Frieberg's  
24 company, who works there.

25 Q. Do you know anything about a fellow named

264

1 John Stitt?

2 A. No.

3 Q. In the last 30 days have you had a meeting  
4 with an individual by the name of Roy Bouchay?

5 A. I would site journalistic privilege.

6 Q. Have you given Roy Bouchay any names of  
7 our customers verbally or written any proprietary

8 information that you would deem proprietary?

9 A. I don't know what you consider to be  
10 proprietary.

11 Q. Have you given Roy Bouchay either verbally  
12 or otherwise names of the clients of this Harris  
13 Organization?

14 A. I don't believe so, no. If you are asking  
15 me if I sent him a list of clients of the Harris  
16 Organization, the answer is no.

17 Q. You could have picked up the phone and  
18 said, here are a half dozen names of the Harris  
19 Organization.

20 A. I haven't done that.

21 Q. Do you intend to, as we sit here today?

22 A. I haven't even considered it. Just for  
23 the record, it is not part of what I do, to sell Mr.  
24 Harris' client list or give it away to competitors.

25 Q. I may have asked you this. I think I know

265

1 the answer.

2 In the last 30 days have you met with Carl

3 Dilley?

4 A. I site journalistic privilege.

5 Q. Has Carl Dilley given you any customer

6 list of the Harris Organization?

7 A. Journalistic privilege.

8 Q. I am going to go over the witness list

9 with you, if I may. I am going to ask you very

10 briefly, perhaps questions along the lines why do

11 you intend to call these witnesses. Let me suggest

12 that, although we hasn't discussed this, when we

13 provide our witness list we will provide you with

14 the same information on request in writing, so you

15 don't have to take a deposition. So you can write

16 me a letter and say why you want to take these

17 people's depo and I will respond in writing and make

18 it part of the court file.

19 The first individual is John Schockey,

20 Office of the Comptroller of Currency. Why do you

21 intend to call him?

22 A. To provide evidence in relation to Mr.

23 Harris' involvement with Montserrat banks that were

24 closed down in the late eighties, early nineties.

25 Q. Have you ever spoken with Mr. Shockey?

1 A. Journalistic privilege, does that apply

2 here? I have spoken with Mr. Shockey.

3 MR. STRIP: We are talking about

4 government officials now.

5 MR. GUARCH: I know. Is the purpose of

6 what you are doing now to get an approximation of

7 what they are going to testify to?

8 MR. STRIP: More or less and also to

9 determine whether in fact -- the next question I am

10 going to ask you, do you know whether he will come

11 to Miami to testify or have you talked about taking

12 his deposition in Washington?

13 MR. GUARCH: We are not at that level.

14 Q. (Mr. Strip) The next person is Richard

15 Marston who lives in Dublin, Ireland.

16 A. He will testify to the Montserrat banking

17 situation.

18 Q. Have you talked to him and is he willing

19 to testify voluntarily?

20 A. Is that something I need to answer?

21 Q. I am trying to find out if he is going to

22 be here or are we going to have to depose him?

23 A. I haven't reached that stage.

24 Q. Fair enough. Do you know by name any  
25 particular representatives of the U.S. Internal

267

1 Revenue Service that you intend to call?

2 A. I do not know who the appropriate person  
3 would be, but it is my intention to call the  
4 appropriate representative. I'll provide you with  
5 the name, as soon as I have it.

6 Q. The purpose of having a representative of  
7 the IRS testify would be what, please?

8 A. To testify as to the nature of the  
9 products and services offered by the Harris  
10 Organization.

11 Q. We have Rachel Azipri, Key Largo, Florida  
12 which appears also to be Carl Dilley's address or  
13 close to it. What is she going to testify to?

14 A. That is the address I believe of Neptune's  
15 Hideaway.

16 Q. Hotel?

17 A. Yes.

18 Q. What would she testify to?

19 A. In relation to a mortgage arrangement  
20 between the Harris Organization and the owners of  
21 that property.

22 Q. Is that in some way associated with Carl  
23 Dilley?

24 A. I have no idea.

25 Q. It is a real close address.

268

1 A. I believe Mr. Dilley lives in Miami. That  
2 address is Key Largo.

3 Q. His office is in Key Largo on Overseas  
4 highway. Very close.

5 What does she know about some mortgage  
6 arrangement with Neptune Hideaway Hotel?

7 A. We will not know until she is deposed.  
8 The exact contents we wouldn't know until she is  
9 deposed.

10 Q. What relationship does she have with  
11 Neptune's Hideaway Hotel; if you know?

12 A. I am not sure what her position is. She  
13 is going to give evidence in relationship to that  
14 mortgage relationship.

15 Q. Is she an owner, their lawyer?

16 A. I don't know her specific title.

17 Q. From where did you get her name?

18 A. It is a name that was given to me in the

19 course of my research.

20 Q. David Dugas, we already discussed. Derek

21 Sambrook, we already discussed. Robin Bailey we

22 already discussed. Jay Adkisson of Oklahoma City,

23 what would he testify to?

24 A. He is a U.S. tax attorney. He has, I

25 believe, attended presentations given by Mr. Harris

269

1 and he will hopefully testify that what Mr. Harris

2 advocates is tax evasion, as opposed to tax

3 avoidance, which the former is illegal, the latter

4 is legal.

5 Q. Have you talked to him about testifying?

6 A. I have had several conversations with Mr.

7 Adkisson and I believe he is willing to testify.

8 Q. James Bennett of Addison, Texas, what

9 would he testify to?

10 A. That he hired me to initially get some  
11 information on Mr. Harris in early March, I believe,  
12 of 1998.

13 Q. That is consistent with your testimony  
14 yesterday that he wanted to have him checked out?

15 A. He was thinking of investing with the  
16 Harris Organization.

17 Q. Do you know when you terminated the  
18 investigation for Mr. Bennett and what your  
19 recommendation to him was?

20 A. I believe he hired me officially on March  
21 3rd. I presented him with a report, approximately,  
22 two weeks later and that was it. In terms of the  
23 recommendation, he asked me to sort of look into Mr.  
24 Goldstein and into the Harris Organization. In  
25 terms of the Harris Organization I believe I

270

1 recommended that he be extremely careful when  
2 considering an investment and I believe if there was  
3 a recommendation in the report, I'm not even sure  
4 there was, the recommendation would have been  
5 leaning towards not doing business with the Harris

6 Organization.

7 Q. Bill Amos, residing in Costa Rica?

8 A. Former officer of the Harris

9 Organization. I hope he will testify as to the way  
10 the company operates.

11 Q. Have you talked to him about testifying?

12 A. I am not sure specifically whether I have  
13 or haven't.

14 Q. We have Patrick Abraham and Larry  
15 Abraham. Tell us about the two of those.

16 A. Two former officers and/or employees of  
17 the Harris Organization. I hope they will testify  
18 about the workings of the Harris Organization.

19 Q. Do you believe Larry Abraham lives in  
20 Panama?

21 A. I'm not quite sure where Larry Abraham  
22 lives. I believe he went to live in Chile, but his  
23 son lives in Panama. So he could be contacted in  
24 care of his son.

25 Q. Have you ever talked to either one of them

1 about whether they are willing to testify?

2 A. I don't believe I have.

3 Q. Arturo Rodriguez of Havana, Cuba?

4 A. Yes.

5 Q. What is he going to testify to?

6 A. Can I look at that? The Harris

7 Organization on one of its web sites at

8 Havana-Holdings.COM purports to have a business

9 relationship with that entity Centro Internacional

10 de la Habana, Avenida 4 1. I believe the Harris

11 Organization is misleading its relationship with

12 that entity.

13 Q. Gilberto Boutin from Panama, have you

14 discussed with him his willingness to testify?

15 A. No.

16 Q. What would he testify to?

17 A. He is a former officer of the Harris

18 Organization knowledgeable to testify on a number of

19 things in relation to the workings of the Harris

20 Organization.

21 Q. Donald Mitchell, you have shown as Miami

22 with Revenge Marine?

23 A. Care of.

24 Q. Care of Revenge Marine. What would he

25 testify to?

1 A. He is a former officer of the Harris  
2 Organization. He would be expected to have the  
3 knowledge of the way it worked.

4 Q. I notice in this one you say care of.  
5 Does that mean --

6 A. I have care of for some of them. It is  
7 merely a question of time.

8 Q. Is that a question of address?

9 A. He is living in Miami. That is a contact  
10 address for him.

11 Q. Have you spoke to Donald Mitchell?

12 A. In relation to what?

13 Q. Testifying.

14 A. No, I have not.

15 Q. Philip LaMar of Panama, have you spoken  
16 with him about testifying?

17 A. No.

18 Q. Have you spoken with him at all?

19 A. I cannot answer that because of  
20 journalistic privilege.

21 Q. What would he testify to?

22 A. I believe he is a former employee of the

23 Harris Organization. He would be able to testify on

24 the sort of things that go on there.

25 Q. Carl Dilley of Miami, Florida. Same

273

1 answer, former officer?

2 A. Yes.

3 Q. Carlos Barnes of Panama, what would he

4 testify to?

5 A. I believe he is a former officer and/or

6 employee of the Harris Organization.

7 Q. Have you talked to him about testifying?

8 A. No.

9 Q. Have you talked to him at all?

10 A. Journalistic privilege.

11 Q. Miren Guterrez, c/o La Prensa Newspaper

12 in Panama City. Is that him or her?

13 A. That is a lady.

14 Q. Have you talked to her about testifying?

15 A. I have not.

16 Q. What would she testify to?

17 A. She is a journalist that has written  
18 several articles about the Harris Organization.

19 Q. What would she testify to in your opinion?

20 A. She would testify about several articles  
21 that she has done about the Harris Organization  
22 about the outcome of research she has conducted in  
23 the Harris Organization.

24 Q. David G. P. Allan of York Medical, Inc.,  
25 what would he testify to?

274

1 A. He would testify about the legitimacy of  
2 the claims on the Havana-Holdings.COM web site in  
3 relation to the Harris Organization's involvement in  
4 Cuba.

5 Q. Was he an investor?

6 A. He does business in Cuba. His company is  
7 quite big in Cuba, I understand.

8 Q. What does he know?

9 A. He knows a lot about Cuba. He has at that  
10 Havana-Holdings.COM made a number of claims about  
11 the Harris Organization involvement in Cuba, blatant

12 inaccuracies in there, school boy errors. And  
13 witnesses who I intend calling from Cuba or possibly  
14 Mr. Harris -- the chairman of Medical, Inc., Mr.  
15 Allan, will testify about the claims being made by  
16 the Harris Organization, about its involvement in  
17 Cuba and the reality.

18 Q. Have you talked to him about testifying?

19 A. I have not.

20 Q. R.E. McMaster of Whitefish, Montana, what  
21 would he testify to?

22 A. He is somebody who has a relationship or  
23 had a relationship, maybe still has a relationship  
24 with the Harris Organization.

25 Q. Have you talked to him about testifying?

275

1 A. I have not.

2 Q. Have you talked to him at all?

3 A. Journalistic privilege.

4 Q. Juan Jose Vega, is that the same Mr. Vega  
5 we talked about yesterday?

6 A. No. The Harris Organization claims on its  
7 web site, Havana-Holdings.COM that it has a business

8 relationship with a company, CUBANACA which I  
9 believe is a large tourist operator in Cuba. My  
10 understanding is that no such company exists and  
11 there is an error on the site and they actually mean  
12 to refer to CUBANACAN, which is indeed a bona fide  
13 company in Cuba.

14 Q. I failed to ask you whether you had asked  
15 or discussed with David Dugas as to whether he will  
16 testify?

17 A. I have not.

18 Q. Have you talked to Derek Sambrook about  
19 whether or not he will testify?

20 A. No.

21 Q. Have you talked to Robin Bailey as to  
22 whether he will testify?

23 A. No.

24 Q. Do you have any reason to believe or not  
25 believe that they will or will not testify? Do you

1 have any feelings either way?

2 A. I am fairly reasonably confident that most

3 of them will testify.

4 Q. In the event they are unwilling to come to  
5 Miami to testify have you discussed with them the  
6 likelihood of being deposed?

7 A. We have not reached that stage, no.

8 Q. Now, who on your witness list will testify  
9 as to the Harris Organization being insolvent?

10 A. Well, there are several people on the  
11 witness list who are former officers of the Harris  
12 Organization and who should be able to provide  
13 evidence as to the insolvency of the Harris  
14 Organization.

15 Q. Who do you envision?

16 A. Any of them who are former officers.

17 Q. Who do you envision testifying that the  
18 Harris Organization was involved in a Ponzi scheme?

19 A. Former officers.

20 Q. Same answer?

21 A. And maybe others.

22 Q. Have you discussed with any of the  
23 officers testifying as to the issue of insolvency?

24 A. Will you repeat the question?

25 Q. Have you had discussions with officers

1 that we have on your witness list as to their  
2 willingness to testify on the subject of insolvency?

3 A. Not that I recall.

4 Q. Same as to the issue of the Ponzi scheme?

5 A. I don't quite know where this is leading.

6 I am calling the witnesses I intend to call. That  
7 is an incomplete list that will be added to. The  
8 witnesses who are former officers of the Harris  
9 Organization will comment on a number of aspects  
10 hopefully in relation to the Harris Organization,  
11 which will involve the way it operated, whether it  
12 was a Ponzi scheme or not whether it was insolvent  
13 or solvent. Whether Marc Harris was ripping off  
14 clients, whether he was stealing money from  
15 clients. I don't really understand why we have to  
16 go through this the way we are going through it.

17 MR. GUARCH: He has the right to ask the  
18 questions.

19 Q. Part of our need is to determine who we  
20 should depose.

21 A. Could I answer all of these questions by  
22 saying that the former officers of the Harris

23 Organization who I intend to call will hopefully  
24 give evidence on a variety of aspects of the way the  
25 Harris Organization operated.

278

1 Q. I am going to ask you, have you discussed  
2 with any specific officers, former officers as to  
3 whether or not they will in fact testify as to the  
4 Ponzi scheme?

5 A. You already asked me a number of  
6 questions, whether I discussed with officers whether  
7 they will testify or not. You have the answers  
8 there. You have asked me whether I have discussed  
9 whether they will testify. The answer is no. Then  
10 you are coming back and asking me what I discussed.

11 MR. GUARCH: I think some of this might  
12 start crossing over into work product as well. I  
13 know what you are trying to do is limit it as best  
14 as possible.

15 MR. STRIP: Help me prepare.

16 MR. GUARCH: It doesn't make any sense to  
17 chase ghosts. I think some of it starts to cross  
18 over into work product at some point.

19 Q. (Mr. Strip) Are you in a position to tell  
20 us at this point any individual specifically who  
21 will testify as to a Ponzi scheme with who you had  
22 discussions about that issue? Bad question, but I  
23 think you get the drift.

24 MR. GUARCH: If you are not --

25 THE WITNESS: I am not in a position to

279

1 answer that.

2 Q. (Mr. Strip) Who do you expect to testify  
3 on the issue of money laundering? I think that is a  
4 cleaner question.

5 MR. GUARCH: Let me just state an  
6 objection to the extent we are now in the area of  
7 work product. His expectations of who may testify  
8 are clearly in conjunction with his lawyer's  
9 discussions.

10 MR. STRIP: I don't want to get into  
11 privilege. Isn't that an appropriate question when  
12 a witness list is produced?

13 MR. GUARCH: This witness list is not a

14 witness list that is produced with the  
15 representation that these are individuals who will  
16 testify at trial. There is under Rule 16.1 those he  
17 reasonably believes have knowledge about the facts,  
18 whatever the exact words are. So it is not produced  
19 as a witness list for trial. Exchange list of  
20 witnesses then known to have knowledge or facts  
21 supporting material allegations of the pleadings  
22 filed by the parties.

23 MR. STRIP: Let me try it differently.

24 Your point is well taken.

25 MR. GUARCH: Frankly, since we are only at

280

1 the motion to dismiss stage, I don't know how we can  
2 make that determination. However, in good faith we  
3 are trying to comply with the rules, as I see it.

4 Q. (Mr. Strip) Let me see if I can try it  
5 differently. I am not going to belabor the point.

6 Who do you reasonably believe on that  
7 witness list will testify on the Ponzi scheme?

8 A. At this moment in time anyone who was a  
9 former officer and/or employee of the Harris

10 Organization should be able to testify about the  
11 fact that the Harris Organization has been accused  
12 of running a Ponzi scheme.

13 Q. Who, if anybody, do you reasonably believe  
14 will testify as to the allegations of worthless land  
15 and markup of the land in Argentina?

16 MR. GUARCH: Same objection.

17 MR. STRIP: That is my last question. If  
18 you know at this time.

19 THE WITNESS: I don't know at this time.

20 MR. STRIP: That is all.

21 MR. GUARCH: We will read.

22 (Thereupon, the deposition was concluded  
23 at 11:20 a.m.)

24

25

1 EXCEPT FOR THE CORRECTIONS  
2 MADE HEREIN BY ME, I CERTIFY  
3 THIS IS A TRUE AND ACCURATE  
4 TRANSCRIPT.  
5 FURTHER DEPONENT SAETH NOT

6

5

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6

DEPONENT

7

8

9 STATE OF FLORIDA)

)SS

10 COUNTY OF DADE)

11

12 Sworn and subscribed to before me this  
\_\_\_\_\_ day of February, 1998.

13 PERSONALLY KNOWN \_\_\_\_\_ OR I.D. \_\_\_\_\_

14

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17

Notary Public in and for  
the State of Florida at  
Large.

18

19

My commission expires:

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1 CERTIFICATE OF OATH

2 STATE OF FLORIDA)  
 )SS  
3 COUNTY OF DADE)

4 I, BONNIE L. WINKELMAN, Notary Public in  
 and for the State of Florida at Large, certify that  
5 the witness, DAVID MARCHANT, personally appeared  
 before me and was duly sworn.

6  
 WITNESS my hand and official seal this  
7 12th day of January, 1999.

8

9 -----  
 BONNIE L. WINKELMAN, Notary Public  
10 State of Florida

11

REPORTER'S DEPOSITION CERTIFICATE

12

STATE OF FLORIDA)  
13 )SS  
 COUNTY OF DADE)

14

I, BONNIE L. WINKELMAN, shorthand  
15 reporter, certify that I was authorized to and did  
 stenographically report the deposition of DAVID  
16 MARCHANT, the witness herein; that a review of the  
 transcript was requested; that the foregoing pages  
17 numbered from 1 to 281 inclusive is a true and  
 complete record of my stenographic notes of the  
18 deposition by said witness; and that this  
 computer-assisted transcript was prepared under my  
19 supervision.

20 I further certify that I am not a  
 relative, employee, attorney or counsel for any of  
21 the parties, nor am I a relative or employee of any  
 of the parties' attorney or counsel connected with  
22 the action.

23 DATED this 12th day of January, 1999.

24

25

-----  
BONNIE L. WINKELMAN

283

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PEGGY ANN COOK & ASSOCIATES, INC.

2

150 Southeast 2nd Avenue

Suite 1011

3

Miami, Florida 33131

4

ARAN, CORREA & GUARCH, P.A.

5 Attn: J.M. Guarch, Jr., Esq.

710 South Dixie Highway

6 Coral Gables, Florida 33146

7

January 12, 1999.

8

Re: Marc M. Harris, et Cie, S.A., et al vs.

9 David E. Marchant, et al

Case No. 98-761-CIV-MOORE

10

Mr. Guarch:

11

Enclosed please find your copies of the  
12 deposition of David Marchant, taken on December 21st  
and December 22, 1998, in reference to the  
13 above-entitled case.

14

Please arrange for the deponent to read  
your copies of said deposition, making any  
15 corrections he feels necessary on the enclosed  
errata sheets, indicating page and line of  
16 correction. Then have him sign his name on the  
original signature page and have it notarized.

17

Please return the original signature page  
18 and errata sheets to me at Republic National Bank  
Building, 150 Southeast 2nd Avenue, Suite 1011,

19 Miami, Florida 33131.

20 If we do not hear from you within the next 30  
21 days, we shall conclude that the reading, signing  
22 and notice of filing of the deposition have been  
23 waived.

22

23

24

-----  
BONNIE L. WINKELMAN

25

cc: A.C. Strip, Esq.

284

1

2 PEGGY ANN COOK & ASSOCIATES, INC.  
3 150 Southeast 2nd Avenue  
4 Suite 1011  
Miami, Florida 33131

4

5 STRIP, FARGO, SCHULMAN & HOPPERS  
6 Attn: A.C. Strip, Esq.  
7 575 S. Third Street  
Columbus, Florida 43215

7

8 February 12, 1999

9 Re: Marc M. Harris, et Cie, S.A., et al vs. David  
10 E. Marchant, et al  
Case No. 98-761-CIV-MOORE

11

Mr. Strip:

12

The original transcripts of the deposition  
13 of DAVID E. MARCHANT, taken on December 21st and  
14 December 22, 1998 in the above cause is enclosed for  
your files.

15           The witness did not waive reading and  
          signing and was duly notified to come in and read  
16 the deposition transcript.

17           As of the above date, the witness has not  
          come in to read and sign the transcript, which has  
18 been noted on the original transcript.

19                               Sincerely,

20

21                               BONNIE L. WINKELMAN

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