

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

UNITED STATES OF AMERICA,	:	DOCKET NO. 04-20075
	:	
Plaintiff,	:	
vs.	:	May 26, 2004
	:	
GREGORY JAMES CATON,	:	
	:	
Defendant.	:	Lafayette, Louisiana

REPORTER'S OFFICIAL TRANSCRIPT OF THE PLEA HEARING
BEFORE THE HONORABLE TUCKER L. MELANCON
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

FOR THE PLAINTIFF: LARRY J. REGAN
Assistant United States Attorney
800 Lafayette Street, Ste. 2200
Lafayette, LA 70501

FOR THE DEFENDANT: LEWIS O. UNGLESBY
Attorney at Law
246 Napoleon Street
Baton Rouge, LA 70802

REPORTED BY: LARAE BOURQUE, RPR, CRR
United States Court Reporter
800 Lafayette Street, Ste. 3103
Lafayette, Louisiana 70501

COPY

P R O C E E D I N G S

1
2 THE COURT: All right. The next matter that we have is
3 Criminal Docket 04-20075, United States of America vs. Gregory
4 James Caton. The matter before the Court today is the attempt of
5 the defendant to enter a plea of guilty to Counts 1, 2, and 3 of
6 a Bill of Information.

7 Are there any -- well, let's go ahead and let the
8 lawyers identify themselves at this time for the record starting
9 with the Assistant United States Attorney representing the
10 government.

11 MR. REGAN: Your Honor, this is Larry J. Regan
12 representing the U.S. Attorney's Office.

13 MR. UNGLESBY: Lewis Unglesby on behalf of Greg Caton,
14 Your Honor.

15 THE COURT: All right. And is the defendant ready to
16 proceed, Mr. Unglesby?

17 MR. UNGLESBY: Yes, sir.

18 THE COURT: Mr. Regan, is the government ready to
19 proceed?

20 MR. REGAN: Yes, Your Honor. I'm getting the originals
21 in order before I turn them in, but we are ready.

22 THE COURT: All right. Now, Mr. Unglesby, if you and
23 your client would please come up to the lectern here.

24 And, Mr. Unglesby, am I correct that your client
25 intends to enter a guilty plea to Counts 1, 2, and 3 of the Bill

1 of Information?

2 MR. UNGLESBY: Yes, sir, Your Honor.

3 THE COURT: All right. I'm sorry. You said, yes, that
4 was correct?

5 MR. UNGLESBY: Yes, sir, Your Honor.

6 THE COURT: All right. And, Mr. Regan, are there any
7 filings to be made in connection with this defendant's guilty
8 plea?

9 MR. REGAN: Your Honor, I will make them. I had one
10 page out of order. I'm trying to locate that right now, and I'll
11 put it in as soon as I do, Your Honor.

12 THE COURT: All right. And, if you would, state for
13 the record what that is that it's going to be when you file it,
14 the totality of the documents.

15 MR. REGAN: At the time it will be filed, the
16 government intends to file a plea packet with a copy of the Bill
17 of Information; the waiver of indictment executed by the
18 defendant; the elements of the offense; the affidavit
19 understanding of maximum penalty and constitutional rights; a
20 plea agreement; a factual stipulation; an agreement to abandon
21 property pertaining to the guns seized; an agreement to abandon
22 property which deals with products seized; a consent decree of
23 forfeiture and motion and order of forfeiture; and suggested
24 questions for the Court.

25 THE COURT: All right. And, Mr. Unglesby, based on the

1 representation that Mr. Regan makes that he's just getting the
2 paper in order, are there any objections to those filings?

3 MR. UNGLESBY: No.

4 THE COURT: They will be admitted without objection.

5 All right. Mr. Caton -- am I saying that right, Caton?

6 MR. UNGLESBY: Yes.

7 THE COURT: All right. Mr. Caton, there are a number
8 of questions I'll have to ask you in order to assure myself that
9 you are entering a valid plea. If you do not understand any of
10 the questions or at any time you wish to consult with
11 Mr. Unglesby, please say so as it is essential to a valid plea
12 that you understand each question before you answer it.

13 Do you understand that, sir?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. And, Ms. Jordan, would you
16 please administer the oath to the defendant.

17 THE CLERK: Please raise your right hand.

18 (DEFENDANT SWORN)

19 THE COURT: Mr. Caton, do you understand that having
20 been sworn, your answers to my questions will be subject to the
21 penalties of perjury or of making a false statement if you do not
22 answer truthfully?

23 THE DEFENDANT: Yes.

24 THE COURT: And how old are you, Mr. Caton?

25 THE DEFENDANT: Forty-eight.

1 THE COURT: And how far did you go in school?

2 THE DEFENDANT: Four years of college.

3 THE COURT: And did you get a degree from a college?

4 THE DEFENDANT: Associate's degree and an additional
5 couple of years all together in school.

6 THE COURT: An associate's degree and what?

7 THE DEFENDANT: Associate's degree and then a couple of
8 years after that of additional schooling.

9 THE COURT: So you can read and write the English
10 language?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. Have you taken any drugs, medicine,
13 pills of any kind, or drunk any alcoholic beverages in the past
14 24 hours?

15 THE DEFENDANT: No.

16 THE COURT: Have you ever been treated for mental
17 illness or addiction to narcotic drugs of any kind?

18 THE DEFENDANT: No.

19 THE COURT: Do you understand what is happening here
20 today?

21 THE DEFENDANT: Yes.

22 THE COURT: Would you please explain to me in your own
23 words what it is that you're here to do today.

24 THE DEFENDANT: I'm here to enter pleas to protect my
25 wife and my employees and others.

1 THE COURT: Okay. But, now, you need to help me with
2 this. And you may need to talk to Mr. Unglesby and you may not,
3 but part of my role right now is to make sure that what you're
4 doing is, one, that you understand what you're doing, and, two,
5 it's a voluntary -- that you understand it's voluntary.

6 Now, I really need for you to help me with what you're
7 actually saying, coming up here and saying, Judge, under oath,
8 under penalty of perjury or of making a false statement, this is
9 what I did.

10 You know, that's the role I play right now, and I'm not
11 trying to make it more difficult for you.

12 THE DEFENDANT: I understand, Your Honor. Well, there
13 are accuracy issues in the pleas, but -- I'm sorry. Specifically
14 what do you want to know, Your Honor?

15 THE COURT: I want to know -- I'm under the impression
16 that you are pleading guilty to Counts 1, 2, and 3 of the Bill of
17 Information.

18 You're saying that you're pleading guilty. I
19 understand that. What are you pleading guilty to, sir? What are
20 you telling me you did wrong under the law?

21 THE DEFENDANT: Let me read it.

22 THE COURT: You can go ahead and consult with
23 Mr. Unglesby if you'd like.

24 Paula, turn that microphone off, please.

25 (CONFERRING)

1 THE DEFENDANT: Mail fraud involving violations of FDA
2 rules.

3 THE COURT: Okay. I'm sorry. Turn the microphone back
4 on.

5 I'm sorry. Go ahead.

6 THE DEFENDANT: Mail fraud involving violations of FDA
7 rules.

8 THE COURT: Okay. And, Mr. Unglesby, prior to the
9 start of court today, did you have the opportunity to visit with
10 your client?

11 MR. UNGLESBY: Yes, Your Honor.

12 THE COURT: And have you had the opportunity prior to
13 today to visit with your client?

14 MR. UNGLESBY: Yes, Your Honor.

15 THE COURT: And based on those meetings and your
16 knowledge of the defendant, do you have any doubt as to the
17 defendant's competence to enter a plea in this matter here today?

18 MR. UNGLESBY: No. The defendant is very competent,
19 Your Honor.

20 THE COURT: All right. Well, the Court is satisfied,
21 based on the interaction it's had with the defendant as well as
22 the representation of the defense attorney, that the defendant is
23 competent to enter a plea in this matter at this time.

24 Now, Mr. Caton, have you had ample opportunity to
25 discuss your case with Mr. Unglesby?

1 THE DEFENDANT: Well, I just got the -- this paperwork
2 just about an hour ago, so -- and I've signed it. So I would say
3 I haven't had a lot of time, but I've had enough time to sign the
4 documents.

5 THE COURT: All right. Let me ask you because this is
6 very important to me and certainly important to you.

7 Do you feel like you need more time -- even though
8 you've signed these documents, even though there's not an
9 objection to them being filed, would you like more time to speak
10 with Mr. Unglesby either today or come back here later today or
11 we can come back another day? I want to make sure you have had
12 adequate time to discuss your case with Mr. Unglesby.

13 THE DEFENDANT: In all candor, Your Honor, I don't
14 think it would affect the outcome.

15 THE COURT: Okay. And, again, I'm not trying to make
16 this more difficult. I'm just trying to do what I'm supposed to
17 do, the role I play here.

18 Even though it doesn't -- or it might not affect the
19 outcome, would you like to have more time to talk to
20 Mr. Unglesby?

21 THE DEFENDANT: Maybe this is the utilitarian part of
22 me speaking, but I don't see the usefulness of it. I think I
23 know what you're getting at, Your Honor, and I'm going to try to
24 tell you this is -- I've taken an oath to speak the truth. So
25 I'm going to tell you as truthfully as I can.

1 My wife and I prepared for potential problems during
2 the Y2K thing. We bought a lot of food. We bought solar panels.
3 Included in our purchases was a series of guns because we were
4 very fearful as were a number of other people in our community.
5 At the time that we did that, we bought guns from a police
6 officer who had a shop on Kirkman.

7 We really felt everything we were doing was in
8 accordance with the law. My understanding of the law as it's
9 been told to me is that even if I had got advice from an
10 attorney, even if I had a whole police department saying that
11 this was okay, that the way the current law reads, it has nothing
12 to do with intent. It has to do with possession and only
13 possession such that the possession of two guns would bring ten
14 years.

15 If this document said I must serve five years in prison
16 because I improperly entered -- emptied a kitty litter box, I
17 would be forced to sign that. I don't really have a choice in
18 the matter.

19 So when you ask me have I had enough time with my
20 attorney, for me it becomes an issue of relevancy. What's the
21 relevancy? I'm having to sign this because I can't afford for
22 myself and my wife to go to prison and orphan my seven-year-old
23 son because we didn't have knowledge that under any condition no
24 woman in America can own a gun if she's living with a man who's
25 had a prior altercation with the federal law. That is -- for all

1 intents and purposes, that's the way the law is currently being
2 enforced. Most citizens don't know that. We certainly didn't
3 know that.

4 But that determines the course that one has to take in
5 the course of doing a plea bargain. Whatever this says, it
6 doesn't matter whether it's truthful or not, I have to sign it.

7 THE COURT: Well, I want you to understand, I'm doing
8 the best I can. You may feel you have to sign it. You may feel
9 it may do no more -- do you no more good to talk to Mr. Unglesby,
10 but to do the job I'm supposed to do for our society under the
11 oath I took, I don't have to accept the guilty plea.

12 And I've got to tell you right now, I know you're doing
13 the very best you can right now one human being to another. I
14 see you trying to say, Judge, this is how I feel. This is the
15 way I see it.

16 I want you to know that's what I'm trying to do, but
17 what you just said, I don't think there's any way in the world
18 today that I can accept your plea.

19 And I'm not trying to delay this, I certainly don't
20 want that to happen, but, I mean, you've just said a bunch of
21 things here that -- and if you didn't have -- and, again, I don't
22 want to make Mr. Unglesby's head any bigger than some judges say
23 it is. You've got one of the best defense lawyers in this state
24 with you right now. I don't know what he's told you. I don't
25 care to know.

1 But I don't feel my comfort level here. It's like
2 you're getting railroaded into doing something that you don't
3 think is right.

4 THE DEFENDANT: I don't understand that, Your Honor.

5 MR. UNGLESBY: Here's our situation, Judge. The
6 government has agreed to waive charges on the guns. Caton is a
7 convicted felon. The guns, the ammunition, the body armor, all
8 of the things that were found which resulted in his being
9 detained are well-documented.

10 Now, there's confusion over whether it was his guns or
11 his wife's guns, but in the facts of the case, it's clear to him
12 that he would be convicted if he had a trial.

13 Now, in addition to that, he was -- what provoked all
14 of this was the position by the FDA that he was in violation of
15 FDA law by selling various products that were labeled as medicine
16 or identified as medicine without FDA approval.

17 His position has always been these were -- fell under a
18 different act. These were herbs and, you know, outside the
19 mainstream of regular medication and that they were allowed. We
20 were wrong. It's simple. Whether Mr. Caton had a good intention
21 or not, he was wrong. The law is clear that what he did do he
22 can't do.

23 THE DEFENDANT: I don't necessarily agree with that.

24 THE COURT: I'm sorry?

25 THE DEFENDANT: I don't necessarily agree with that.

1 THE COURT: Well, I tell you what I'm going to do,
2 Mr. Unglesby. I think it's the right thing to do. Before we
3 refix this for another day, I'm going to go ahead and take my
4 three o'clock matter. I'm going to give you and Mr. Caton until
5 3:30. We'll come back at 3:30. Now, if you need more time than
6 that, I'm going to give you more time.

7 If the defendant needs to discuss with you and you
8 would like to do it that way with Mrs. Caton, I'm going to ask
9 the marshal to make the same arrangement we had before here so
10 Mrs. Caton can be part of it if that's what both of you want. If
11 Mr. Caton says, no, that's not necessary, or you say, Mr. Caton,
12 I suggest we don't do that, that will be y'all's business, but I
13 want the marshal to make available the same jury room back there.

14 And, again, Mr. Caton, I want you to know this. I'm
15 doing my dead level best to do my job and not make it any harder
16 on you and your wife than it must already be. Okay?

17 THE DEFENDANT: I understand that, Your Honor. Thank
18 you.

19 THE COURT: All right. Well, we're in recess in this
20 matter. And we'll go ahead -- if we could get Frances in here
21 for the other case, we'll just do this conference call on the
22 record in here.

23 MR. UNGLESBY: Be here at 3:30?

24 THE COURT: 3:30 for us, and if Mr. Unglesby says we
25 need more time than that, we'll take all the time we need.

1 MR. REGAN: Should I hold on on putting this --

2 THE COURT: I'm -- let me just say this. Let's do hold
3 off until we see where we're going.

4 MR. REGAN: Okay, sir. Good enough.

5 (RECESS)

6 THE COURT: All right. Mr. Unglesby, have you had
7 ample opportunity to discuss your client's case with --

8 MR. UNGLESBY: Yes.

9 THE COURT: And based on your understanding of the
10 meeting that you and your client had, are we ready to proceed or
11 should we continue this to another day?

12 MR. UNGLESBY: No, sir. We're ready to proceed.

13 THE COURT: And, Mr. Caton, is that correct? You've
14 had ample opportunity to discuss this matter with Mr. Unglesby?

15 THE DEFENDANT: Yes.

16 THE COURT: And are you ready to proceed, sir?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Now, Mr. Unglesby, let me ask
19 you a lawyer question because it's getting to be kind of a
20 procedural thing for us, and maybe the answer is just so easy we
21 should have figured it out without asking you. I called the case
22 as Criminal Docket Number 03-200 --

23 THE CLERK: No.

24 THE COURT: Okay. I called the case that was filed
25 yesterday. That's 04-20075. And that is in the case where the

1 Bill of Information was filed, which I think we're proceeding on
2 today, and the older case was one by indictment.

3 MR. REGAN: By indictment, and that was 03-20092. And
4 that -- in the plea agreement there is a provision to be
5 dismissed.

6 THE COURT: You're going to dismiss that after the
7 sentencing in this case.

8 MR. REGAN: Yes. And I apologize. I probably should
9 have mentioned something to you and it caught you unaware. I'm
10 sorry. That's my fault.

11 THE COURT: And I wouldn't have known -- and again it
12 doesn't matter to me, but why we wouldn't have done it in the
13 same case.

14 MR. REGAN: Well, we were going to do it, but it
15 creates problems in the federal government's tracking of these
16 cases, Your Honor.

17 THE COURT: So it's another bureaucratic thing from the
18 Justice Department.

19 MR. REGAN: That's exactly right, Your Honor.

20 THE COURT: Another attempt to micromanage what the
21 district judges do by the Justice Department.

22 Okay. I understand.

23 All right. I believe where we left off, Mr. Caton, I
24 had asked you, I believe, if you had had ample opportunity to
25 discuss your case with Mr. Unglesby. I just asked you that

1 before we started, but I'd ask you again if you could tell me if
2 you've had ample opportunity to discuss your case with
3 Mr. Unglesby.

4 THE DEFENDANT: Yes.

5 THE COURT: And have you been satisfied with
6 Mr. Unglesby's representation of you up until today?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you satisfied to have him represent you
9 here today?

10 THE DEFENDANT: Yes.

11 THE COURT: Now, Mr. Unglesby, has the defendant been
12 furnished with a copy of the Bill of Information containing the
13 charges he's attempting to plead guilty to here today?

14 MR. UNGLESBY: Yes, he has, Your Honor.

15 THE COURT: And, Mr. Unglesby, does the defendant waive
16 the reading of the Bill of Information?

17 MR. UNGLESBY: Yes, he does, Your Honor.

18 THE COURT: Now, Mr. Caton, do you understand that you
19 have a constitutional right to be charged by an indictment of a
20 Grand Jury, but you may waive that right and consent to being
21 charged by a Bill of Information of the United States Attorney?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if you do not waive
24 indictment, the government may present the case to the Grand Jury
25 and request it to indict you?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that a Grand Jury is
3 composed of at least 16 and not more than 23 persons, and that at
4 least 12 Grand Jury members must find that there's probable cause
5 to believe that you committed the crime with which you are
6 charged before you may be indicted?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that the Grand Jury might
9 or might not indict you?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand if you waive indictment
12 by the Grand Jury, the case will proceed against you on the
13 United States Attorney's Bill of Information just as though you
14 had been indicted?

15 THE DEFENDANT: Yes.

16 THE COURT: Have you discussed the matter of waiving
17 your right to indictment by the Grand Jury with Mr. Unglesby?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Unglesby, do you know of any reason why
20 your client should not waive indictment in this matter?

21 MR. UNGLESBY: No, sir, Your Honor.

22 THE COURT: Mr. Caton, do you understand your right to
23 indictment by a Grand Jury?

24 THE DEFENDANT: Yes.

25 THE COURT: Have any threats or promises been made to

1 you to induce you to waive indictment?

2 THE DEFENDANT: No.

3 THE COURT: Do you wish to waive your right to
4 indictment by a Grand Jury?

5 THE DEFENDANT: Yes.

6 THE COURT: The Court finds that the defendant's waiver
7 of indictment is knowingly and freely given and will accept it.

8 Mr. Caton, do you understand that under the
9 constitution and laws of the United States, you're entitled to a
10 trial by a jury on the charges contained in the Bill of
11 Information?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that in order to convict
14 you, all of the 12 jurors would have to agree that you were in
15 fact guilty?

16 THE DEFENDANT: Yes.

17 THE COURT: And, again, Mr. Unglesby, you say that the
18 defendant has previously been provided with a copy of the charges
19 in the Bill of Information?

20 MR. UNGLESBY: Yes, as well as the original indictment,
21 Your Honor.

22 THE COURT: Now, Mr. Regan, maybe it's just my copy,
23 but it doesn't seem like it's in order.

24 MR. REGAN: It doesn't have what, sir?

25 THE COURT: One minute and I'll tell you if I'm right.

1 (PAUSE)

2 THE COURT: I am right. I've got two second pages it
3 looks like, but let's see if we can get through this thing.

4 MR. REGAN: Your Honor, let me go ahead and
5 double-check. I will give you mine.

6 THE COURT: No. That's all right. I'm going to go
7 with what I've got right now.

8 MR. REGAN: All right, sir.

9 THE COURT: Do you understand, Mr. Caton, that at trial
10 you would have the right to testify if you chose to do so, but
11 you'd also have the right not to be compelled to incriminate
12 yourself?

13 THE DEFENDANT: Yes.

14 THE COURT: And do you understand that at that trial
15 you would be presumed to be innocent, and the government would
16 have to overcome that presumption and prove you guilty by
17 competent evidence and beyond a reasonable doubt and you would
18 not have to prove that you were innocent?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that at the trial and
21 through to any appeal you have the right to the assistance of a
22 lawyer, and if you cannot afford one, the Court will appoint a
23 lawyer for you?

24 THE DEFENDANT: Yes.

25 THE COURT: And do you understand that in the course of

1 the trial, the witnesses for the government would have to come to
2 court and testify in your presence, and your lawyer could
3 confront and cross-examine the witnesses for the government,
4 object to evidence offered by the government, and offer evidence
5 on your behalf?

6 THE DEFENDANT: Yes.

7 THE COURT: And as I said earlier or asked you earlier,
8 you understand that if you chose to testify, you could, but you
9 couldn't be compelled to testify if you chose not to?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that you would have the
12 right to summon, call, and present witnesses on your behalf?

13 THE DEFENDANT: Yes.

14 THE COURT: If I accept your guilty plea, do you
15 understand that you will waive your right to a trial and the
16 other rights I've just discussed, there will be no further trial,
17 and I will simply enter a judgment of guilty and sentence you on
18 the basis of your guilty plea?

19 THE DEFENDANT: Yes.

20 THE COURT: In pleading guilty, do you understand that
21 you will also have to waive your right not to incriminate
22 yourself since I'll have to ask you questions about what you did
23 in order to satisfy myself that you're guilty as charged and you
24 will have to admit or acknowledge your guilt?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you willing to waive and give up your
2 right to a trial and the other rights I've discussed?

3 THE DEFENDANT: Yes.

4 THE COURT: And have you discussed with Mr. Unglesby
5 the charges in the Bill of Information to which you are
6 attempting to plead guilty to here today?

7 THE DEFENDANT: Yes.

8 THE COURT: Were you able to read it and go over it
9 with him?

10 THE DEFENDANT: Yes.

11 THE COURT: You have been charged in Count 1 of the
12 Bill of Information with mail fraud in violation of 18, United
13 States Code, Section 1341 and 2. I am required to explain to you
14 this offense.

15 The cited statute, among other things, makes it a crime
16 for anyone to use commercial interstate carriers in carrying out
17 a scheme to defraud.

18 For a jury to find you guilty of this crime, the
19 government would have to prove each of the following beyond a
20 reasonable doubt: First, that you knowingly created a scheme to
21 defraud, that is, you knowingly devised a plan whereby you
22 introduced unapproved new drugs into interstate commerce and you
23 were aided and abetted by others in this endeavor; second, that
24 you acted with a specific intent to defraud numerous victims by
25 the introduction of unapproved drugs; and, third, that you

1 shipped by commercial carrier the unapproved new drugs or caused
2 other persons to ship the unapproved new drugs through interstate
3 commerce for the purpose of carrying out the scheme.

4 Do you understand the nature of those charges?

5 THE DEFENDANT: Yes.

6 THE COURT: And I'm going to ask you this in light of
7 what's been said here earlier because that's my role again. This
8 offense says that you must have knowingly done that and that you
9 had specific intent to defraud. Is that accurate?

10 THE DEFENDANT: Yes, except that I never intended to
11 harm anyone and believed in my products.

12 THE COURT: Okay. So you said you didn't intend to
13 harm anyone and you believed in your products. And, again, Mr.
14 Caton, I'm really not trying to make this difficult on you or me
15 or Mr. Unglesby or the government.

16 But what you're saying here to me in essence is, Judge,
17 one, I knew I was creating a scheme to defraud. I knew that.
18 And, two, I did it with the specific intent to defraud people.
19 Is that what you did?

20 MR. UNGLESBY: Well, yes, but not -- we get into these
21 semantics, Judge. Mr. Regan writes this stuff. I can't control
22 what he writes.

23 THE COURT: Well, those are the elements of the crime
24 that the government would have to prove at trial.

25 MR. UNGLESBY: Yeah. And we're guilty of those

1 elements of the crime, but from this perspective. The defrauding
2 was against the government. Mr. Caton put in interstate commerce
3 materials that he advertised as medicine that were not FDA
4 approved and received money in return for shipping those
5 materials.

6 There are other allegations in civil cases and implicit
7 in these charges is that those materials harm people. What
8 Mr. Caton is trying to say is he never had any intention to harm
9 anyone nor any reason to believe that any of the things that he
10 was selling would harm anyone. It's a distinction without a
11 difference, but it's important to him.

12 He did do it. He did place it in interstate commerce.
13 He didn't have FDA approval. It's illegal, you know, and that
14 constitutes mail fraud, but he didn't mean to hurt anybody by it.

15 THE COURT: Well, does he concede that he knowingly
16 created a scheme to defraud?

17 MR. UNGLESBY: Well, in the definition of scheme to
18 defraud, he had a business that he advertised over the Internet
19 that represented things which he sold to be a certain type of
20 material, which it was not. So, yes.

21 THE COURT: So that was knowingly?

22 MR. UNGLESBY: Yeah. He knew that he did not have FDA
23 approval, Your Honor, to advertise anything as a medicine. And
24 he knew that as it was put in the Bill of Information, he did not
25 have FDA approval -- pardon me -- or have the application for FDA

1 approval on site in his business, which would be required if a
2 person were going to engage in the kind of business that he was
3 in.

4 MR. REGAN: In addition, Your Honor, on his Internet
5 site for which he sold his goods, he advertised that they were
6 being -- he was operating out of the Caribbean islands.

7 THE COURT: Okay. But let's say in a trial of the
8 cause, that would be all evidence that the government would
9 introduce to the jury to show that it was a knowing scheme to
10 defraud?

11 MR. REGAN: Right.

12 THE COURT: What I need to know from the defendant
13 before I can accept the guilty plea is if that's what he's
14 pleading guilty to. I can't just blink at that even though
15 everybody is trying to get through this as best they can.

16 MR. REGAN: I understand, Your Honor.

17 THE COURT: And I mean that with the greatest respect
18 for the defense lawyer and the government's lawyer here.

19 MR. REGAN: I understand that and I understand your
20 position, Your Honor, but I just added that to show that it's
21 part of the overall scheme in order to defraud. He claimed that
22 these products were manufactured outside the United States and
23 they were being shipped from outside the United States.

24 THE COURT: And if I were the trier of fact, I might
25 find him guilty, but he's got to let me know that that's what he

1 did. I've just got to understand that.

2 THE DEFENDANT: Yes.

3 THE COURT: So you understand -- you admit to me that
4 you knowingly created a scheme to defraud?

5 THE DEFENDANT: As you're now defining defraud, yes.

6 THE COURT: I'm sorry. As I now what?

7 MR. UNGLESBY: He said as he understands the definition
8 of defraud, yes.

9 THE DEFENDANT: As you're defining defraud, yes.

10 THE COURT: Okay. And that the intent to defraud
11 someone -- the intent. Look, Mr. Caton, I told you how good a
12 lawyer I think you have, and you do. I'm not trying to make this
13 hard, but I cannot let you walk off a cliff if that's not what
14 you're saying you did.

15 THE DEFENDANT: As it's been described to me, yes, I
16 was intending to defraud the government.

17 THE COURT: And is it correct that you shipped or had
18 somebody ship it by commercial carrier, whatever product you were
19 selling?

20 THE DEFENDANT: Yes. I did ship products by commercial
21 carrier.

22 THE COURT: All right. And you have been charged in
23 Count 2 of the Bill of Information with introduction of
24 unapproved new drugs into interstate commerce in violation of 21,
25 United States Code, Section 331(d), 335(a), and 333(a)(2). Those

1 statutes make it a crime for anyone to introduce and deliver for
2 introduction into interstate commerce an unapproved new drug.

3 In order for the United States to prove you're guilty
4 beyond a reasonable doubt, the government must prove the
5 following elements: First, that you introduced or delivered for
6 introduction into interstate commerce unapproved new drugs;
7 second, that you did so with the intent to defraud or mislead;
8 and, third, that you knowingly committed these acts, acts one and
9 two.

10 Do you understand the nature of the charge against you
11 in Count 2 of the Bill of Information?

12 THE DEFENDANT: Yes.

13 THE COURT: I'm sorry, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you agree that in fact all of those
16 things you did, all of the elements, the three elements I just
17 listed, that that's correct, that's what you were trying to do
18 when you did it?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. Now, in Count 3 of the Bill of
21 Information you've been charged with criminal forfeiture in
22 violation of Title 18, United States Code, Section 982(a)(1)
23 and(2)(a).

24 Do you agree with the forfeiture of your assets as
25 outlined in the plea agreement and the consent decree of the

1 forfeiture? Do you agree with that, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: And those are the items that would have
4 been negotiated between Mr. Unglesby on your behalf and the
5 government that you would turn over and forfeit to the
6 government; is that right?

7 THE DEFENDANT: Yes.

8 THE COURT: Well, I am convinced now after talking to
9 you, Mr. Caton, that you do understand the nature of the charges.
10 You have under penalty of perjury or of making a false statement
11 said you are in fact guilty of those charges.

12 Do you know the maximum sentence and fine I might
13 impose on the charge to which you are pleading guilty, the
14 charges which you're attempting to plead guilty?

15 THE DEFENDANT: Yes.

16 THE COURT: The maximum possible penalty on Count 1 of
17 the Bill of Information is a term of imprisonment of not more
18 than five years; a fine of not more than \$250,000; three years
19 supervised release; and a one hundred dollar special assessment
20 fee. Do you understand that, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: And Count 2 of the Bill of Information, the
23 maximum penalty that may be imposed for that is a term of
24 imprisonment of not more than three years; a fine of not more
25 than \$250,000; a term of supervised release of not more than one

1 year; and a one hundred dollar special assessment fee. Do you
2 understand that, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: The penalty for Count 3 of the Bill of
5 Information is the forfeiture of the assets and the one hundred
6 dollar special assessment fee. That's the items that I asked you
7 about earlier that Mr. Unglesby and the government lawyer had
8 negotiated that you were going to turn over to the government.
9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: And you understand the special assessment
12 fee is a hundred dollars for each of the three charges. It would
13 be a total of \$300.

14 THE DEFENDANT: Yes.

15 THE COURT: And I understand from what was filed in the
16 record, I believe, is a consent decree the government has
17 prepared; is that correct?

18 THE DEFENDANT: Yes.

19 THE COURT: And did you sign that consent decree along
20 with your lawyer and the government lawyer?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that in every criminal
23 case in which a defendant may be sentenced to more than one year
24 of imprisonment as in this case, that in addition to any maximum
25 possible penalty, the Court shall order a term of supervised

1 release to follow the imprisonment for a length of time of up to
2 three years? Do you understand that, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that while on supervised
5 release, you would be required to abide by conditions specified
6 by the Court, and that supervised release might be revoked if you
7 violate any of those conditions?

8 If supervised release is revoked for any reason, you
9 may be imprisoned for the full term of supervised release without
10 credit for time spent on post-release supervision, and that the
11 combined time spent in prison under a sentence of imprisonment
12 and a subsequent revocation of supervised release might exceed
13 the statutory maximum sentence. Do you understand that, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand the offense to which you
16 are pleading guilty is a felony offense? If your plea is
17 accepted, you will be adjudged guilty of that offense, and that
18 such adjudication may deprive you of valuable civil rights such
19 as the right to vote, the right to run for political office, the
20 right to serve on a jury, and the right to possess any kind of
21 firearm.

22 THE DEFENDANT: Yes.

23 THE COURT: Has anyone threatened you, leaned on you,
24 or forced you to plead guilty, or told you that if you do not
25 plead guilty, further charges will be brought against you or that

1 other adverse action will be taken against you?

2 THE DEFENDANT: May I have a moment with my attorney?

3 THE COURT: You may. Absolutely. And if you'd like to
4 excuse yourself from the room or if you want to just go over to
5 the side there, you may, too.

6 (CONFERRING)

7 MR. UNGLESBY: No, Judge, no one has threatened
8 Mr. Caton or forced him to plead guilty and he can answer for
9 himself on that. However, part of the agreement that's in the
10 documents is that there will be no charges filed against his wife
11 or any of his associates.

12 THE COURT: That's part of the plea agreement.

13 MR. UNGLESBY: Yes.

14 THE COURT: All right. So again the question I would
15 ask you, Mr. Caton, has anyone threatened you, leaned on you, or
16 forced you to plead guilty, or told you if you do not plead
17 guilty, further charges will be brought against you or that other
18 adverse action will be taken against you?

19 THE DEFENDANT: No.

20 THE COURT: Do you understand that plea agreements are
21 permissible and that you and all of the lawyers have a duty to
22 disclose the existence and terms of any such agreement to the
23 Court?

24 THE DEFENDANT: Yes.

25 THE COURT: Mr. Regan, what is the substance of the

1 plea agreement that the United States has entered into with
2 Mr. Caton and Mr. Unglesby?

3 MR. REGAN: Your Honor, the government has entered a
4 plea agreement. It's understood in that plea agreement that he
5 will plead guilty to Counts 1 and 2 and also agree to the
6 forfeiture in Count 3 of the Bill of Information, admit that he's
7 in fact guilty of the offenses charged. He agrees to cooperate
8 with the government and forfeit all interest in the properties
9 listed in the plea agreement and the other documents.

10 He agrees to identify fully all his assets subject to
11 polygraph examination as subject to the matter of this particular
12 case, abandon -- he agrees to abandon property, firearms, and
13 ammunition, which were the subject of forfeiture in Count 2 of
14 the indictment under Criminal Number 03-20092.

15 In return, the government -- if the Court finds a
16 factual basis for Mr. Caton's plea, we agree not to prosecute him
17 for any other offenses based on the investigation which occurred
18 during the years stated in the plea agreement.

19 At the time of sentencing -- at the time of sentencing
20 we will make known to the Court the nature and extent of the
21 defendant's cooperation.

22 And the government will state for the record here, Your
23 Honor, that the government will be positing some information
24 directly to the Court because of its sensitive nature and the
25 situation in which Mr. Caton cooperated with federal government

1 agents in a matter unrelated to this, but it was a matter of
2 national security.

3 So I would -- I'm going to attempt to by letter
4 probably bring that specifically to your attention. And I won't
5 try to be too cryptic, but there are things I can't go into.

6 THE COURT: You mean at this time?

7 MR. REGAN: At this time, Your Honor.

8 MR. UNGLESBY: And one other thing, Judge, just to
9 clarify -- I'm sorry. Did I interrupt you?

10 MR. REGAN: No. Go ahead.

11 MR. UNGLESBY: The language as written has a number of,
12 I think, \$860,000 or something in forfeiture. There is no
13 \$860,000 or \$86,000 or \$86.

14 There's also language there that says that the
15 government has the right to substitute assets if they can't find
16 the four listed items. Well, three of them are property, hard
17 property. There's not in issue. The fourth one is the dollar
18 figure which Mr. Regan and I both know is illusory. There is no
19 -- there has never been any such money that Mr. Caton has to
20 forfeit.

21 Part of the agreement is that there will be no property
22 taken from Mrs. Caton such as her home, you know, unless there's
23 some proof that there was some effort to secrete assets in the
24 course of this investigation, which, of course, right now the
25 record is that there has been no effort to secrete any assets

1 from anybody, secrete any assets from anyone.

2 So I want to make it clear that while it says that, you
3 know, there's equally an agreement between the government and I
4 that that will not be done in any effort to take away the family
5 home.

6 MR. REGAN: No. That does not -- counsel is correct,
7 Your Honor. The government has no intention at this moment or
8 anywhere down the road to take the family residence away from
9 Mrs. Caton.

10 THE COURT: Well, help me. And, again, I'm just trying
11 to understand. The \$860,000 -- why is Mr. Unglesby right? If
12 it's an illusory number, why did you put that in there?

13 MR. REGAN: Because we have to, Your Honor. In the
14 area of forfeiture law -- and once again regulations that I and
15 AUSA's have to abide by. The problem is we have to stipulate
16 what was involved, proceeds and so on, even if we may never get
17 them back. And, you know, I will in good faith stand here and
18 tell the Court today, no, there's no accounts we can go to to get
19 \$950,000.

20 And, in addition, Your Honor, so that the Court is not
21 confused or people don't think we're trying to mislead, the Bill
22 of Information and one of the other documents expresses the
23 amount at \$950,000 in cash. The consent and order decree
24 stipulates \$860,000. That's because we gave Mr. Caton an offset
25 for the equity of the three buildings we're seizing and it

1 brought it down to 860.

2 THE COURT: How much was it before in the government's
3 view?

4 MR. REGAN: Pardon me?

5 THE COURT: How much was it before you gave him the
6 credit for the three buildings?

7 MR. REGAN: \$950,000. It's down. He had equity which
8 reduced it to \$860,000.

9 THE COURT: Well, help me. And even though it's not
10 really germane at this point, I'm trying to -- like I say, don't
11 confuse me, and you know how confused I get and how easily I get
12 confused.

13 Why does the government say he owed this nine hundred
14 and something thousand?

15 MR. REGAN: Because at one time funds were transferred
16 from his account, Alpha Omega, the company in which he sold the
17 medicine or whatever over the Internet. A total of \$950,000 in
18 four transfers, five transfers --

19 UNIDENTIFIED SPEAKER: Numerous transfers.

20 MR. REGAN: Numerous transfers over the period of time
21 that is mentioned in the Bill of Information that the
22 investigation covered. There were numerous transfers of money
23 from Alpha Omega to another company Mr. Caton and his wife owned,
24 Lumen Foods, totaling \$950,000.

25 We have the accountant here who's an ex-IRS agent who

1 was hired by FDA who analyzed the bank records and that was the
2 amount of money that went from the company, which the government
3 considers any funds derived from the sale of these things was
4 ill-gotten because it was as a result of mail fraud. So
5 basically the 950 is what we put in here and it backed off to
6 860.

7 THE COURT: Mr. Unglesby, the next question to you,
8 good lawyer that you are and officer of the court that you are,
9 we have the sentencing hearing. One of the issues as far as the
10 guideline range is going to be the amount of the loss.

11 You have told me in your view that's an illusory
12 number, but it's in the plea agreement. What happens at the
13 sentencing hearing when the probation officer comes back with the
14 amount of loss -- and let's use Mr. Regan's approach in saying
15 this is the government claim. That's exactly what they do and I
16 think it's Draconian sometimes the way it works, but are we going
17 to have an issue on the amount of loss for the calculation of the
18 guidelines?

19 MR. UNGLESBY: I don't think so because of two reasons.
20 Number one, it's not -- they use the term "loss." That's the
21 gross sales, Judge. In the five years they were in business,
22 that's the total amount of money transferred over, \$950,000, not
23 \$950,000 in profit by any sense.

24 Now, second, as I appreciate the guidelines -- and I'm
25 more than willing to admit my ignorance of guidelines sometimes

1 -- the magic number was a million dollars. As long as we're
2 under a million dollars, it doesn't matter. Whether it was
3 \$500,000, \$475,000, \$860,000, whatever number Larry chose, the
4 critical thing is to be under a million dollars.

5 As long as we're under a million dollars and our
6 interpretation, he and mine, is correct, which I think it is,
7 then it's okay.

8 THE COURT: All right. Mr. Regan, officer of the court
9 that you are and wearing the white hat that you do, I just went
10 through this with Ms. Finley today on a Social Security case.

11 And I'm not talking about -- I mean, I'm not sure I
12 understand the breakoff point Mr. Unglesby is talking about
13 because I know in that Social Security case it was under \$70,000.
14 There was a lot less of a guideline range. If you got over 70,
15 then we had another issue.

16 Is it different in this type of case with wire fraud,
17 mail fraud?

18 MR. REGAN: No, it shouldn't be, Your Honor. My
19 appreciation of the law is -- well, I may be trying to answer the
20 wrong question. We kept this under a million dollars for a
21 specific purpose, Your Honor. And arguably he's right. I'm not
22 saying that the \$950,000 that went from Alpha Omega into Lumen
23 was net proceeds.

24 THE COURT: Net profit.

25 MR. REGAN: Net profit. I'm sorry. Net profit.

1 THE COURT: But it will be the government's position
2 that it doesn't matter because it's the total volume amount and
3 that's what the guidelines call for?

4 MR. REGAN: Right.

5 THE COURT: Are we together on that, Mr. Unglesby?

6 MR. UNGLESBY: Yes.

7 THE COURT: Okay.

8 MR. REGAN: But I would also state, Your Honor, when it
9 comes to restitution in this matter, that there will only be one
10 victim we're talking about that the government would be seeking
11 restitution. And once again it may be illusory because there's
12 no funds to pay for it, but --

13 THE COURT: Well, what's the requirement in the plea
14 agreement that you recited that he's got to disclose all of his
15 assets? What's that about?

16 MR. REGAN: Basically to help the government. We've
17 been able to identify from business records, Your Honor, but I'm
18 not saying that in Mr. Caton's case it's the case.

19 However, unfortunately it has been the government's
20 experience in these type of cases where people have knowingly
21 concealed assets or shifted assets away from them to basically
22 shield those assets from being taken when they plead guilty and
23 they agree for forfeiture.

24 I'm not accusing Mr. Caton of doing that. I'm just
25 saying if for some reason we find out somewhere down the road

1 that a lawyer of his or somebody acting in his capacity
2 transferred some funds somewhere that he didn't disclose, then we
3 have to address that.

4 MR. UNGLESBY: There's been a pretty lengthy debriefing
5 from Mr. Caton by agents who are trained to find that, interested
6 in what they had done and had studied up his businesses.

7 And he's been -- I think it's reflected in the
8 documents, and I'm sure it's reflected by Mr. Regan verbally,
9 that he answered all of their questions and no one's indicated
10 that there's anything but truthfulness in everything he's done.

11 MR. REGAN: Right.

12 MR. UNGLESBY: So we don't see it as a problem because
13 he doesn't have anything to be afraid of.

14 THE COURT: Okay. And, again, the amount of
15 restitution that would come up under the guidelines, again that's
16 not really going to be an issue because whether we think it's the
17 right way to go or not, that's what the guidelines say about the
18 total money that washes through.

19 MR. REGAN: Right.

20 MR. UNGLESBY: Yeah.

21 THE COURT: All right.

22 MR. REGAN: And, Your Honor, just to continue because I
23 think Mr. Caton may have hesitated a moment on this. It's part
24 of the plea agreement that we did agree that we would not
25 prosecute his wife if he pled guilty as well as not to prosecute

1 other members that were involved or involved in the business he
2 was in.

3 THE COURT: I'm going to take that as employees whether
4 they're family members or not.

5 MR. REGAN: Yes, sir. We're not going after them.

6 And then the other, Your Honor, is the fines and so on
7 as the Court has instructed him. And basically this is the
8 substance of the entire plea agreement between the defendant,
9 Gregory James Caton, and the U.S.

10 THE COURT: All right. Mr. Unglesby, do you agree that
11 the substance of the plea agreement has been correctly stated?

12 MR. UNGLESBY: Yes, sir.

13 THE COURT: Mr. Caton, is that your understanding of
14 the substance of the plea agreement that you entered into with
15 the United States?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And before you signed that document, the
18 plea agreement, were you able to go over it with Mr. Unglesby?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Was he able to answer any questions you
21 might have had about the terms of the plea agreement?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions at all about it
24 right now?

25 THE DEFENDANT: No.

1 THE COURT: And that plea agreement was filed in the
2 record of this proceeding prior, right, Mr. Regan?

3 MR. REGAN: No, Your Honor. You asked me to withhold
4 it.

5 THE COURT: You introduced it and there was no
6 objection. I said it would be in, but you didn't tender it to
7 Ms. Jordan. You may do that at this time.

8 All of those documents were admitted without objection,
9 right, Mr. Unglesby?

10 MR. UNGLESBY: Yes.

11 MR. REGAN: Your Honor, I would ask madam clerk to
12 conform the affidavit of understanding of maximum penalty and
13 constitutional rights with her signature and would ask the Court
14 to affix its signature on the waiver of indictment and the
15 consent decree of forfeiture. And the order will also need to be
16 signed by the Court, Your Honor.

17 THE COURT: What you just said, there's several orders
18 that she needs to present to me so I can sign so we can go
19 through?

20 MR. REGAN: Yes, Your Honor, in the total plea packet
21 right there.

22 THE COURT: All right. And, Ms. Jordan, just make sure
23 I do that before we leave the courtroom here.

24 Now, Mr. Caton, has anyone made any promises other than
25 those that are contained in the plea agreement that induced you

1 to plead guilty in this matter, sir?

2 THE DEFENDANT: No, sir.

3 THE COURT: Under the Sentencing Reform Act of 1984,
4 the United States Sentencing Commission has issued guidelines for
5 judges to follow in determining a criminal case. Have you and
6 Mr. Unglesby talked about how the guidelines might apply in your
7 case?

8 THE DEFENDANT: Yes.

9 THE COURT: And have you and Mr. Unglesby discussed the
10 concept under the guidelines of relevant conduct?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, Mr. Regan, let me ask you this,
13 because, again, I don't want to muddy the water, but I'm just
14 trying to make sure I understand and that I understand that
15 Mr. Caton understands.

16 This relevant conduct, how would that apply in this
17 case? You indicated that by whatever the Bill of Information
18 says, there's nine hundred and some thousand dollars total.

19 MR. REGAN: Right.

20 THE COURT: But my question becomes once Mr. Helo or
21 his office gets involved in this and starts looking at the whole
22 universe, is there likely to be other dollars that will be
23 considered relevant conduct in connection with -- that would in
24 fact increase the sentencing guidelines?

25 MR. REGAN: No, Your Honor.

1 THE COURT: All right. And I guess -- again without
2 trying ever to fence the government in, but it seems to me that's
3 a judicial admission you just made, that this is it, Judge?

4 MR. REGAN: Yes, sir.

5 THE COURT: All right. Thank you.

6 Mr. Caton, do you understand that the Court will not be
7 able to determine a guideline sentence in your case until after
8 the presentence report has been completed and you and the
9 government have had the opportunity to challenge the facts
10 reported by the probation officer?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you also understand that after it has
13 been determined what guideline applies to a case, I have the
14 authority in some circumstances to impose a sentence that is more
15 severe or less severe than the sentence called for by the
16 guidelines?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that under some
19 circumstances, you or the government may have the right to appeal
20 any sentence that I impose?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you also understand that parole has been
23 abolished, and if you are sentenced to prison, you will not be
24 released on parole?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand that if the government --
2 that if the government is agreeing not to prosecute other counts
3 or charges, this conduct might be considered in the presentence
4 report -- well, let me just back that out.

5 That's a standard question, Mr. Regan. I suppose that
6 doesn't have anything to do with this case, does it?

7 MR. REGAN: The gun count?

8 THE COURT: Number 57 here, that when I ask about if
9 you are agreeing not to prosecute any other charges, the other
10 charges that the government said we aren't going to prosecute,
11 that conduct might be considered in the presentence report and
12 might increase your sentence under the guidelines. I think based
13 on your representation as a judicial admission, there's no other
14 matters -- I don't need to ask that question, do I?

15 MR. REGAN: No, Your Honor.

16 And if I may clarify one thing I said a minute ago. We
17 intend to ask for no more money. So, again, the relevant conduct
18 is at that level right now. The caveat is -- and it's in the
19 plea agreement -- is that if we should discover money that has
20 been secreted, then we would have to make that known to
21 probation. I don't think that's going to happen.

22 THE COURT: Then that would be grounds for the
23 government to say the plea agreement is out.

24 MR. REGAN: Right. It would. It would.

25 THE COURT: Okay.

1 MR. REGAN: But I don't anticipate we will. I think
2 things will be okay, Your Honor.

3 THE COURT: All right. The other thing, Mr. Regan --
4 and you may have been on the receiving end of this from me
5 before, but, you know -- and I'm not suggesting you did this in
6 this case, but shame on the government if the government ever
7 negotiates anything as far as what the law says or the
8 restitution because I rely on those folks as the arm of the
9 court, not Article II, to tell me that.

10 MR. REGAN: Right.

11 THE COURT: But you didn't do that in this case?

12 MR. REGAN: To negotiate the what, sir?

13 THE COURT: What the loss was. What you're telling me
14 right now, there's nothing else there. That's what I understand.

15 MR. REGAN: Yes, Your Honor. There's only -- and
16 there's only restitution to one person, Your Honor.

17 THE COURT: All right. Now, Mr. Caton, has anyone made
18 any prediction, prophecy, or promise to you as to what your
19 sentence will be?

20 THE DEFENDANT: No.

21 THE COURT: No?

22 THE DEFENDANT: No.

23 THE COURT: Okay. Now, Mr. Regan, in the plea packet
24 there is a written summary of the government's evidence against
25 the defendant. That's what you want me to use as a factual basis

1 for the guilty plea; is that correct?

2 MR. REGAN: Yes, Your Honor.

3 THE COURT: Ms. Jordan, may I see the factual basis?

4 (PAUSE)

5 THE COURT: All right. Now, Mr. Caton, you signed the
6 stipulated factual basis for guilty plea, right?

7 You signed this stipulated factual basis. I mean, I'm
8 looking at the original that's been filed. I see your signature.
9 You did sign that; is that right?

10 THE DEFENDANT: I believe so.

11 THE COURT: Okay. I see your signature, Mr. Unglesby's
12 signature, and Mr. Regan's.

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Now, before you answer -- before
15 you signed that, were you able to go over it with Mr. Unglesby?

16 And if you'd like to look at it. I'm just going to
17 show you.

18 Ms. Jordan, give this to Mr. Unglesby and let him just
19 make sure Mr. Caton understands the document we're talking about.

20 (PAUSE)

21 THE DEFENDANT: Yes. I signed it.

22 THE COURT: All right. And before you signed that, you
23 went over it with Mr. Unglesby and he answered any questions you
24 might have had about it?

25 THE DEFENDANT: Yes.

1 THE COURT: Is everything contained in that factual
2 basis true?

3 THE DEFENDANT: Yes, yes.

4 THE COURT: Okay. You started to say something or --

5 THE DEFENDANT: No.

6 THE COURT: I'm sorry?

7 MR. UNGLESBY: You asked him the question different
8 than it's written down, Judge. It threw him off.

9 THE COURT: Okay. I apologize for that. Sometimes I
10 do that. It's probably not a good practice.

11 But, Mr. Unglesby, based on the discussions that you
12 had before you and your client signed the stipulated factual
13 basis for guilty plea, do you believe everything based on his
14 representations to be true?

15 MR. UNGLESBY: Yes, it is.

16 THE COURT: Mr. Caton, do you have any disagreement at
17 all with anything contained in that factual statement?

18 THE DEFENDANT: No, except that I never -- I had no
19 intention to harm anyone. I believe in the products. I use the
20 products. My employees use the products.

21 THE COURT: If I could, we're going to take a brief
22 little recess. I'd just like to meet with these two lawyers over
23 here.

24 And, Mr. Caton, you can go sit down at the table right
25 there for a moment. Okay?

1 (RECESS)

2 THE COURT: All right. Mr. Caton, let me just ask you,
3 because I've looked -- one of the great things about this
4 technology, I can go back and look at the monitor and see what
5 you said. Help me with what you said. I think now rereading it
6 I do understand.

7 You said you didn't intend to hurt anybody and that you
8 use the products; is that right?

9 THE DEFENDANT: Yes.

10 THE COURT: And that's because in your view the
11 products wouldn't hurt anybody and you weren't trying to
12 physically hurt anybody; is that right?

13 THE DEFENDANT: That is correct.

14 THE COURT: Well, after having read the monitor, that's
15 what I thought.

16 Mr. Unglesby, is there anything else you'd like to ask
17 your client in regard to the question I just asked?

18 MR. UNGLESBY: No, sir.

19 THE COURT: Mr. Regan, anything?

20 MR. REGAN: No, Your Honor.

21 THE COURT: Okay. And so then that statement that you
22 just made and my understanding after reading it, Mr. Caton, I
23 take it you don't have any disagreement with the factual
24 statement. Is that true?

25 THE DEFENDANT: Correct.

1 THE COURT: All right. Since you acknowledge that
2 you're in fact guilty as charged, since you know your right to a
3 trial, what the maximum possible punishment is, and since you are
4 voluntarily pleading guilty, I'll accept your guilty plea and
5 enter a judgment of guilty on your plea.

6 It is the finding of the Court in the case of United
7 States of America vs. Gregory James Caton that the defendant is
8 fully competent and capable of entering an informed plea, and
9 that his plea of guilty is a knowing and voluntary plea supported
10 by an independent basis in fact containing each of the essential
11 elements of the offense. The plea is therefore accepted and the
12 defendant is now adjudged guilty of that offense.

13 Now, Mr. Caton, I'm going to order a presentence
14 investigation report on you. Mr. Ron Helo, the gentleman seated
15 in the jury box, will be the United States Probation Officer
16 assigned to your case. I urge you to cooperate with Mr. Helo in
17 furnishing information for that report since the report will be
18 important in my decision as to what your sentence will be.

19 You'll have the right to have Mr. Unglesby present with
20 you when you give information to Mr. Helo if you wish. You'll
21 also have the opportunity to read the presentence report before
22 sentencing, and you and your lawyer can file any objections to
23 that report based on any incorrect information you think or your
24 lawyer thinks is contained therein, and you and your lawyer will
25 be able to speak at the sentencing hearing.

1 Do you understand that, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Now, the defendant -- how long
4 has the defendant been in custody if we've got that for the
5 record? Anybody? Do we know?

6 MR. REGAN: September 17th of 2003, Your Honor.

7 THE COURT: All right. And there was an appearance
8 before one of the magistrate judges, I suppose.

9 MR. REGAN: Yes, Your Honor.

10 THE COURT: And that was -- that was -- the defendant
11 was ordered detained pending trial of the proceedings or whatever
12 happened.

13 What's the government's view on keeping him detained at
14 this time?

15 MR. REGAN: Your Honor, we'd ask for continued
16 detention.

17 THE COURT: Well, it seems to me with what he's pled
18 guilty to -- and I'm just trying to make sure I understand
19 because there was a different standard under the first charges
20 than there might be now. And I would -- under that criteria --
21 and I don't have it right in front of me, but at the risk of
22 fleeing or danger to other folks or himself.

23 MR. REGAN: Yes, sir.

24 THE COURT: What's the basis for me keeping him?

25 MR. REGAN: We're concerned about flight. He's now a

1 two-time convicted felon. Of course, it's not like he's looking
2 at a hundred years. I understand that.

3 THE COURT: Well, let me ask just -- I know we've
4 already gone through that and made it clear that -- or I made it
5 clear and the defendant acknowledged that. I said nobody would
6 know what the sentence would be, can't know until we get the
7 presentence report, but I'm sure at some point there was some
8 discussion, as you guys worked out a plea agreement, what the
9 potential ranges, plural, might be.

10 What's the government's best view worst case
11 scenario/best case scenario for the defendant under what you
12 perceive the guidelines might be? And I'm going to ask
13 Mr. Unglesby if he agrees that that's the universe.

14 MR. REGAN: I think the most, Your Honor, that -- with
15 my limited understanding of sentencing guidelines and looking at
16 it, just a guess, it's 47 months, under five years.

17 THE COURT: And, Mr. Unglesby, is that pretty much your
18 view? And this is one of those terrible officer of the court
19 questions. Is that pretty much how you see it?

20 MR. UNGLESBY: Yes. I believe Mr. Regan said he
21 thought that was the maximum and I agree with him.

22 THE COURT: What would be the low end?

23 MR. UNGLESBY: I think 41, Judge. The way we look at
24 it is this way. We don't even have to -- I mean, guidelines are
25 easy, but let's just max out at five years for a minute. That's

1 60. He's served nine. He has -- 85 percent is what he would
2 have to serve under the absolutely most Draconian situation,
3 which I don't believe would apply.

4 So you take those two together, the amount of time he's
5 already served and knock off 15 percent if you want to make it 60
6 for the sake of argument. He's still significantly under five
7 years. And I don't think Mr. Caton has any history of having
8 fled, been difficult to find, or anything of that nature.

9 The reason he's pleading guilty, besides that he did
10 wrong, is implicit in what he said today. Number one, he wants
11 to save his wife and his employees from any prosecution, from any
12 kind of conspiracy or other charges. He wants to save his house
13 from any kind of forfeiture. And he has a young child that's how
14 old, Greg?

15 THE DEFENDANT: Seven years old.

16 MR. UNGLESBY: A seven-year-old son, and he wants to
17 get out of jail in time to help raise him. So the likelihood of
18 Mr. Caton fleeing under normal human criteria is very, very
19 small.

20 And I'll add in -- and I don't think Mr. Regan will
21 disagree with me -- he doesn't have any money. You know, so he's
22 not a man of means where if he had some sophisticated way to
23 leave, he could. He's got a young child and he's got a wife who
24 he's pleading guilty in order to try to save from a potential
25 conspiracy charge involving these nutritional supplements that

1 were sold as medicine.

2 And he's been completely debriefed in great detail and
3 is still always available to be further debriefed as the
4 government sees fit, but he's twice been completely debriefed by
5 the FDA and their investigators as well as FBI agents as to all
6 of his activities, his associations, and his business.

7 So I think that, you know, today the United States
8 Government knows far more perhaps about Mr. Caton than they did
9 on the day they first raided his house.

10 THE COURT: And, Mr. Regan, let me ask you, is there
11 anything in this defendant's record as far as the government
12 knows that might fit that other criteria that he'd be dangerous
13 to anybody?

14 MR. REGAN: No, Your Honor.

15 THE COURT: All right. And what was the offense -- I
16 think Mr. Unglesby mentioned it earlier, that he was a previously
17 convicted felon.

18 MR. REGAN: It was counterfeiting, Your Honor.

19 THE COURT: Okay. And one other question. And I think
20 it's completely appropriate at this time unless you tell me
21 there's some other information you're going to bring to my
22 attention in the way of cooperation. I think it's completely
23 appropriate at this time for me to excuse everybody from the
24 courtroom.

25 Since he's the one that made the information available

1 to you, obviously -- and this is a proceeding concerning him.
2 His lawyer needs to be here. But I would ask everyone else
3 except the government employees -- and that would be the wife
4 even and the friend.

5 Is there anybody that's here -- I see a number of folks
6 with these agencies. Are there any of them that should not be
7 privy to this because you say national security and that really
8 gets my interest, because if it doesn't relate to this case, they
9 don't need to know either.

10 MR. REGAN: It doesn't relate to this case.

11 THE COURT: All right. Well, I'm going to ask all of
12 you guys to please excuse yourselves, too.

13 And, Ms. Jordan, I'm going to ask you to turn the
14 microphone off so nobody in the building can hear what we're
15 doing.

16 Now, we've got a lawyer over there with the FDA. You
17 don't have to -- you're a lawyer. You can stay here unless you
18 say let me get out of here.

19 (COURTROOM CLOSED)

20 Now, Ms. Jordan, you have turned off the microphones so
21 nobody can hear us. The microphone is off, right, Ms. Jordan?

22 THE CLERK: Yes.

23 THE COURT: All right. And for the record all of the
24 non-government people that were in the room, including the
25 government's case agent or whatever else on this case -- I want

1 to know what you're talking about on this national security thing
2 because that may present an issue for me to consider, too, if
3 there's anybody out there wanting to hurt this man.

4 MR. REGAN: Your Honor, we can -- I can state
5 unequivocally, based upon my conversations with the agent that
6 debriefed him, that unless Mr. Caton were to flee to Russia, he
7 has no problems.

8 THE COURT: With this other national security issue?

9 MR. REGAN: Yes, sir.

10 THE COURT: And in due course you're going to let me --
11 I don't need to know that. You're representing to me, Judge,
12 that's not an issue. That shouldn't keep him in jail to protect
13 him from whoever the bad guys are.

14 MR. REGAN: Right. Yes, Your Honor.

15 And just as a matter of record, I mean, if this Court
16 determines that the prerequisites of 18 USC 1341 or 1341 et seq.
17 don't apply here, I'm not going to jump up and down, I mean, if
18 you want to release him.

19 We just had concerns based upon the fact that when he
20 -- after having been convicted, knowing he was a convicted felon,
21 we removed eight or nine weapons from the house and over 10,000
22 rounds of ammunition and documents and so on.

23 Mr. Caton is a very bright person, but also Mr. Caton
24 at the time of the millennium honestly believed that the world
25 was going to come crumbling down, and a lot of people did.

1 THE COURT: A lot of people did.

2 MR. REGAN: And so in an effort to protect what he felt
3 would happen and to protect his family, he more or less fortified
4 sections of his house, had a well put in -- or it may have
5 already been there, a fresh water well in the yard. He filled up
6 gasoline -- a 55-gallon drum with gasoline supposedly around his
7 business place to set it off because he felt that when the
8 collapse came, there would be rascals that would be coming to
9 take food and water. That would be the currency.

10 I mean, it just kind of frightened some folks, okay, I
11 mean, that itself, that many guns and that many weapons. And
12 that was based upon -- at the time that he was arrested, we did
13 retrieve visas showing that he had been to Russia on at least two
14 occasions. Is that right?

15 THE DEFENDANT: Twice.

16 MR. REGAN: And we felt as though -- we didn't know for
17 sure -- in fact, at the time we seized some of the records, we --
18 and later I think to find out that it was part of a business
19 venture he was trying to set up. There were moneys which had
20 been disbursed to different places outside the United States, and
21 we felt as though at that time he might indeed be a risk of
22 flight and he might also be a danger, you know. So he was
23 detained at that time. I cannot say -- I cannot give the Court
24 any evidence to show that he's a risk of flight, Your Honor.

25 THE COURT: And I have to assume -- and I may be wrong,

1 but I have to assume with whatever this actual national security
2 issue is, that the government -- and you correct me if I'm wrong
3 -- would not have allowed him to plead to a Bill of Information
4 with all these weapons and all this other stuff if they had any
5 reason to think that he was a threat to himself or anybody else
6 of this country.

7 MR. REGAN: You're correct on that, Your Honor. You're
8 correct on that. You know, obviously the event didn't happen,
9 the millennium bug didn't happen, and I think things kind of
10 calmed down, at least in his mind and his wife's mind about
11 things.

12 Nevertheless, the weapons were there, 10,000 rounds of
13 ammunition, and, you know, that was why those charges came up,
14 but I'm not here telling you that I think --

15 THE COURT: I understand.

16 MR. REGAN: -- he's going to run or that he's a danger.
17 I can't prove that. I can't give you any evidence.

18 So if the Court decides that he needs to be released on
19 bond -- nor I do not feel that he has any personal threat against
20 him by anything that he has done.

21 THE COURT: Okay. Thank you.

22 Mr. Unglesby, do you want to say something?

23 MR. UNGLESBY: Only, Judge, again, at the time we
24 didn't know a lot of things that we know now, I mean, "we" being
25 both sides. And I'll say this -- and Mr. Regan can correct me if

1 I'm wrong.

2 I think subsequent investigation revealed two relevant
3 facts. None of those guns had ever been loaded, much less fired.
4 They were exactly as they were when they had been bought back in
5 1999.

6 Secondly, none of the ammunition had ever been broken
7 open or transport -- you know, anything. It was all just like it
8 was. Secondly, I don't think we knew that at the time that it
9 was bought from a police officer in Lake Charles who knew
10 Mr. Caton had been convicted of a felony.

11 Had there been a trial, the defense -- and legally I
12 don't know how far I could have gone with it, but the defense was
13 actually the guns were titled in his wife's name. I mean, that's
14 true.

15 There was some dispute as to whether that makes any
16 difference because he was present, under their theory, at the
17 time they were purchased and played a role in having them
18 purchased and, therefore, as a convicted felon violated the law.

19 But in terms of your normal felon in possession of a
20 firearm to continue to be a felon or to endanger folks in some
21 fashion or need, you know, want to carry a gun because you're
22 engaged in activity that requires you to be protecting yourself,
23 I think we all pretty much now know that Greg Caton was -- the
24 gun served the same purpose as the 5,000 pounds they found of
25 dried food and beans in his locker at his house as well as the

1 windmill with the gigantic water cistern that he dug in his
2 backyard right in the middle of a neighborhood. I mean, he just
3 thought that he was -- he was into that issue.

4 THE COURT: And let me say this. I understand. And
5 had I taken that tact and thought that this was really the end, I
6 would have -- I always thought about that as like, well, if
7 you're one of the few folks that planned for it, everybody else
8 that didn't plan for it is going to be all over your case. So
9 they're going to be coming after you to get the food or the water
10 or whatever else you had. So I always understood that.

11 Now, again, one other question, though. Is that pretty
12 much what you understand, that all these weapons there had never
13 been used, never been opened, the ammunition and all that stuff?

14 MR. REGAN: Yes, Your Honor. I mean, Mr. Caton had
15 never been convicted or never taken part in any criminal activity
16 of a violent nature.

17 THE COURT: All right. Well, let's get these other
18 folks back in here because I'm going to say some stuff that may
19 concern Mrs. Caton.

20 (COURTROOM OPENED)

21 THE COURT: All right. Everybody back in the court
22 from the government's perspective that you want back here so they
23 can hear what I'm going to do so they don't chew on you if I do
24 something they don't like?

25 MR. REGAN: No. Everybody is here that can be here.

1 The others will be back in time, Your Honor. They probably went
2 to the office. We can start without them. I have everybody here
3 I need.

4 THE COURT: All right. And, Ms. Jordan, just in case
5 -- because we do have public hearings and we always have the
6 microphone on. The microphone can go back on now.

7 Now, I am convinced based on what was said on the
8 record here during the time that I asked those folks to excuse
9 themselves, except the government employees here and the
10 defendant and his attorney, are that, one, Mr. Caton is not a
11 danger to anyone.

12 And I understand exactly why the magistrate judge at
13 the initial detention hearing with the charges then pending would
14 have taken the position that he did, but that was a different
15 universe ago.

16 Now, as to the issue of whether or not he's a flight
17 risk, I have to go in a general sense with what Mr. Unglesby
18 said. I mean, life experience would tell me this man is not
19 going anywhere based on what he's done in this case and what he's
20 trying to preserve for his wife and his child. That's what my 58
21 plus years on the planet would lead me to believe.

22 However, I have a couple of questions of Mr. Unglesby,
23 and maybe he knows and maybe Mr. Caton knows or maybe Mrs. Caton
24 knows.

25 Mr. Unglesby, this house that the defendant was

1 interested in making sure it didn't get into the long reach of
2 the government as far as collecting assets as a result of the
3 plea I just accepted, how much of that -- how much is that house
4 worth?

5 MR. UNGLESBY: Judge, the house was appraised in the
6 late 90's for \$123,000. It has an \$85,000 mortgage on it. It's
7 had some improvements on it, but I can confirm \$123,000 because
8 that was an appraisal five years ago.

9 You know, there's nothing -- I've been to the house.
10 There's nothing in the neighborhood or anything to indicate any
11 degradation. So I'd think that that's -- at least it's still
12 worth that.

13 THE COURT: And the house is in the wife's name or is
14 it in both names?

15 THE DEFENDANT: It's in my wife's name.

16 THE COURT: And, Mr. Regan, so we don't get in an issue
17 down the road, the government knows that, that it's in the wife's
18 name right now and that's not an issue in this case?

19 MR. REGAN: Yes, sir.

20 THE COURT: All right. Where is the house,
21 Mr. Unglesby? You've been to it. Where is it physically located
22 so I'll understand?

23 THE DEFENDANT: Your Honor, the address is 1139 Hodges.
24 It's about a mile or two from downtown Lake Charles, less than a
25 mile from the federal court building on Broad Street.

1 THE COURT: And my perception from what you just said,
2 that would be an older section of town?

3 THE DEFENDANT: The Sharpentia (phonetic) district.

4 THE COURT: I'm sorry?

5 THE DEFENDANT: Sharpentia.

6 THE COURT: Spell it for the court reporter. Okay?

7 THE DEFENDANT: Just put the garden district.

8 THE COURT: Okay. And, again, what kind of, Mr. Caton,
9 improvements have y'all made on it since '99?

10 THE DEFENDANT: The bathrooms -- there hadn't been much
11 done to them since 1946 when the home was built. So we
12 completely redid those. We gutted out the garage and, you know,
13 put in a jacuzzi and closed it in so it's a completely enclosed
14 area.

15 Hardwood floors have been added. A lot of interior
16 work. It's really hard to describe. There's a lot of little
17 things such as tearing up all the tile in the kitchen. We're
18 totally remodeling the kitchen and putting down ceramic tile and
19 ceramic tile in both the upstairs and downstairs bathrooms and
20 completely remodeling those.

21 THE COURT: And the mortgage is \$85,000?

22 THE DEFENDANT: Yes. It's with Gulf Coast Bank in
23 Abbeville.

24 THE COURT: And how much was the mortgage for when you
25 first placed it on the property?

1 THE DEFENDANT: It's floating because what we did was
2 we -- for soybean.com, my food company, there was an additional
3 line of credit when inventory was needed.

4 So it was a floater. It's not like this thing you get
5 and then it's amortized over, let's say, a ten- or a twenty-year
6 period. It floats in accordance with what you borrow. Currently
7 the outstanding principal balance is about \$85,000 if I recall.
8 I'd have to ask my wife. It's about \$85,000 right now.

9 THE COURT: Okay. As far as you know, you're in good
10 standing with the bank and paying whatever they want every month
11 and there's no issues on that as far as you know?

12 THE DEFENDANT: I'll speak more broadly than that. My
13 financial reputation on all levels is impeccable. I have R4's
14 all over my credit reports at every conceivable level, whether it
15 be my personal credit reports or the reports of my company or
16 anything filed with the Better Business Bureau. I made my
17 livelihood off my reputation.

18 THE COURT: Okay. Mrs. Caton, I'd like for you to come
19 up here if you would.

20 And, Mr. Unglesby, I'm not going to ask her anything
21 about this case, and while you represent Mr. Caton and not her,
22 any reason why she shouldn't be administered the oath to answer
23 some questions?

24 MR. UNGLESBY: No.

25 THE COURT: Mrs. Caton, your full name, please.

1 MRS. CATON: Katherine Caton.

2 THE COURT: And how long have you and Mr. Caton been
3 married?

4 MRS. CATON: Since '93.

5 THE COURT: And you have one child, I believe?

6 MRS. CATON: One child.

7 THE COURT: Where does that child go to school?

8 MRS. CATON: Hamilton Christian.

9 THE COURT: Hamilton Christian. And what grade is he
10 in?

11 MRS. CATON: Second. He just finished the second.
12 Today was the last day.

13 THE COURT: Okay. Now, you've heard your husband
14 answer questions that I asked him about the value of the house.

15 Do you have anything to add about what you think the
16 value of the house is, and do you know anything of your own
17 knowledge that he might not?

18 MRS. CATON: Everything he said was correct.

19 THE COURT: And in your neighborhood, are there other
20 houses that are older houses like yours that people are starting
21 to renovate and bring up?

22 MRS. CATON: Correct.

23 THE COURT: And when I hear garden district, I can
24 think of New Orleans. I can think of Alexandria. I can even
25 think of Monroe. Those are older neighborhoods that have started

1 to come back because people are starting to bring them back
2 generally in my experience.

3 Is that what you're thinking this area in Lake Charles
4 is?

5 MRS. CATON: Correct.

6 THE COURT: Now, Mr. Regan, I don't want to ask you any
7 more than general information. The garden district in Lake
8 Charles that you referred to or this other area -- and I've
9 forgotten what you called it, but is that generally what's going
10 on in that area to your knowledge?

11 MR. REGAN: Yes, Your Honor. And I'm not a real estate
12 agent, but I have purchased a home in the last five years or six
13 years. And I think basically the statement that the home is at
14 least worth a hundred and twenty some odd thousand dollars, I
15 would have no hesitation telling the Court right now I think it
16 probably is.

17 I've been in the home also. It's a two-story home. It
18 is in one of the older districts. Some places have been torn
19 down. Other people, professionals, have come in and they've
20 refurbished. So I think \$123,000 is probably a very good
21 appraisal of what that house could sell for.

22 THE COURT: Being on the conservative side?

23 MR. REGAN: On the conservative side, yes, sir. I
24 would think you could get \$123,000.

25 THE COURT: Mrs. Caton, let me ask you this. One of

1 the reasons your husband entered into this agreement with the
2 government, according to what he said and I think what
3 Mr. Unglesby said, was to make sure the house was saved.

4 MRS. CATON: Correct.

5 THE COURT: The house is in your name. How long has it
6 been in your name?

7 MRS. CATON: Maybe five or six years. I don't know
8 exactly.

9 THE COURT: Okay. My question to you, ma'am -- and is
10 it right that you owe about \$85,000 on it?

11 MRS. CATON: Correct.

12 THE COURT: And I may have to ask Mr. Caton to help you
13 or maybe you know. This floating mortgage, what's the most you
14 could borrow from the bank against this floating mortgage?

15 MRS. CATON: Ninety.

16 THE COURT: Ninety.

17 THE DEFENDANT: Maybe I can add to that.

18 THE COURT: Come on up, sir.

19 THE DEFENDANT: To get the interest that I wanted, I
20 had to have a low debt to equity ratio. So I didn't ask for
21 anywhere close to what I could get from it. I asked for 90 even
22 though I could have easily gotten 120.

23 And even Jennifer Monise (phonetic) -- well, it's now
24 Jennifer Meaux, the loan officer of that Gulf Coast Bank there on
25 State Street in Abbeville. She indicated I could borrow

1 considerably more, but the debt to equity ratio also determines
2 how favorable your interest. So I wanted better interest terms.
3 So I only took it to \$90,000.

4 THE COURT: I understand. But the next question -- you
5 can just stand there next to your wife.

6 The next question I have is -- well, two questions that
7 are important to me because, based on what was said while y'all
8 were out of the room and everything I've seen up to now, I don't
9 think your husband presents any threat to anybody.

10 MRS. CATON: Correct.

11 THE COURT: But -- go ahead.

12 THE DEFENDANT: The last time I discharged a firearm --
13 and I can say this because I remember it distinctly -- was at a
14 firing range while I was a reservist in 1979. That is the last
15 time I have ever fired -- discharged a firearm. That could be a
16 small arm, that could be an M16, whatever it was. It was in
17 1979.

18 THE COURT: Okay.

19 THE DEFENDANT: I say it with the idea that I'm still
20 under oath.

21 THE COURT: I understand and I appreciate that, you
22 telling me that.

23 Now, the question I have for you is there's another
24 issue that a judge in my position has to consider, the potential
25 for a defendant fleeing.

1 Now, I choose to believe right now that Mr. Caton is
2 not going anywhere.

3 MRS. CATON: He's not.

4 THE COURT: All right. But the question I have for you
5 is as the owner of that house, will you agree to two things, one,
6 to ensure his appearance at the sentencing of this case?

7 MRS. CATON: Yes.

8 THE COURT: If I release him on a bond, let that bond
9 be secured by your house. And, two, even though you could go
10 back and borrow another \$5,000 with that bank, don't borrow any
11 more money. Can you agree to that?

12 MRS. CATON: Absolutely.

13 THE COURT: Mr. Caton, you being in some role, even
14 though it's maybe against your own interest, I'm going to assume
15 you have at least played a role in being the manager of the
16 reason. Is there any reason that would put such an onerous
17 burden on your wife if she did, in fact, do those two things?

18 THE DEFENDANT: No. It wouldn't put an onerous burden
19 on her, but may I add something, Your Honor?

20 THE COURT: Yes, sir.

21 THE DEFENDANT: I was never a flight risk. I was given
22 complete -- the first charge that happened, which I don't want to
23 get into that counterfeiting thing. That's another boondoggle
24 that I won't get into, but I was free on my own recognizance. I
25 was looking at a lot more time in that situation than I was in

1 this given the nature of it. I wasn't a flight risk in 1990 and
2 I'm certainly not a flight risk today. I never was from the very
3 beginning.

4 THE COURT: And like I told you earlier when you were
5 having a hard time in the beginning -- or I was having a hard
6 time with your answers. I'm just trying to do my job. Okay?

7 THE DEFENDANT: I understand.

8 THE COURT: Okay. Now, what I'm going to do, I'm going
9 to allow the defendant, after a \$75,000 bond has been posted
10 based on using the house as security for the bond, because, based
11 on what I've heard here, I think it could be secured by that.

12 I'm putting it at \$75,000 because I think the extra
13 value there, in the event it was ever needed, would be a
14 deterrent. I realize that if for whatever good reason it only
15 brought \$50,000 dollars, which it easily would, that would still
16 be sufficient for the purposes of what I'm setting a bond for.

17 Second of all, I'm going to -- a condition of that bond
18 is that even though Mrs. Caton might be able to go back to the
19 bank in Abbeville and draw down another \$5,000 against that
20 floating loan, that she agrees not to do it. That's a specific
21 condition of the bond, that she not do that, and I think she said
22 she's agreed to do that.

23 I'm going to ask her again if she agrees -- if she
24 understands, first of all, what I've just said as to both issues,
25 one, to use the house, and, two, to not go and get any more

1 money.

2 MRS. CATON: I agree.

3 THE COURT: And you agree to that?

4 MRS. CATON: Yes.

5 THE COURT: All right. Now, I would hope -- and I
6 don't know how long it's going to take, because that's not what I
7 do, to get this paperwork done. You can't do it today, so he's
8 not going home tonight, but I can't imagine why it would take
9 more than a day to do that.

10 Mr. Regan, I don't know how that works.

11 MR. REGAN: I don't either. I think -- I think I've
12 only seen this happen one time before in federal court and that
13 was in Lake Charles where somebody had to put up their house.
14 They have to work through the clerk of court's office. That's
15 all I know.

16 THE COURT: Well, I will tell you this. I know Howard
17 Parker knows how to do it because in that murder for hire trial
18 he had and I let one of those guys go, that's what they did. So
19 I don't know what we do.

20 And, Mr. Unglesby, you've been representing folks for a
21 lot of years. Maybe you've had this happen all the time. This
22 is the second or third time I've ever done it in ten years.
23 Mr. Regan says it's only the second time he's seen it.

24 MR. UNGLESBY: What normally happens, Your Honor, is we
25 get the documents from the court which say that the bond is as

1 you've set it out and the conditions of the bond.

2 She goes to the sheriff's office -- excuse me -- to the
3 assessor's office in Lake Charles and they give her a validation
4 of the assessment.

5 THE COURT: Excuse me just a minute. Call Cathy right
6 now and see if she's there. Cathy is the deputy in charge.
7 Maybe she can help us.

8 Go ahead, Mr. Unglesby.

9 MR. UNGLESBY: Then she takes that to the sheriff and
10 he approves the bond. He approves that this house is worth --
11 has that much equity, \$75,000. Then she posts that like a
12 mortgage right there at the courthouse.

13 Now, I think then in the federal system she brings all
14 of those documents to the marshal and he approves that they're
15 correct, and if he thinks they're correct, then he releases the
16 prisoner. If he doesn't think they're correct, he tells her
17 what's wrong with them and she goes back and fixes it.

18 THE COURT: Ms. Jordan, is Cathy there?

19 THE CLERK: (SHAKING HEAD)

20 THE COURT: Okay.

21 MR. UNGLESBY: But we'll work on this tomorrow. We'll
22 get it right.

23 THE COURT: Okay. Is there anybody down there, Paula,
24 that might know?

25 THE CLERK: I'm seeing if Charlotte knows anything.

1 THE COURT: In a perfect world, Mrs. Caton, I'd get him
2 out of there today, but we don't live in a perfect world.

3 MRS. CATON: God bless you.

4 THE COURT: Thank you very much for that.

5 Magistrate judges are always smarter than district
6 judges and I'm saying that for the record. Who's the magistrate
7 on this case? Do we have one? Who was the magistrate?

8 MR. REGAN: Magistrate Wilson, Your Honor.

9 THE COURT: I'm in Lafayette now and I'm going to be
10 using one of our guys.

11 MR. UNGLESBY: It was Mike Hill when we started here.
12 When we came to Lafayette, it was Mike Hill.

13 THE COURT: Why don't you call Judge Hill? I think
14 it's 5040. Is that right? Who are you getting, Charlotte?

15 THE CLERK: They say Greta would know.

16 THE COURT: Greta would know. Oh, okay. Well, let's
17 just hang on a minute.

18 Why don't you call Judge Hill right now if he's still
19 there. If he is, I want to talk to him, and if he's not, call
20 Judge Methvin.

21 Now, we've got the clerk employee coming up here with a
22 packet of something. So we're going to look at it and figure it
23 out a little bit. And, again, we're still jumping the gun. It's
24 going to be tomorrow I'm sure, but, anyhow, we're going to figure
25 that out.

1 Now, let me just go ahead. We'll finish the business
2 we need. I've said what I need to say on that.

3 What's the sentencing date for Mr. Caton?

4 THE CLERK: August 24th, 2004, at two o'clock.

5 THE COURT: All right. The sentencing date, Mr.
6 Unglesby, Mr. Regan, is August the 24th at two o'clock.

7 All right. Let's just go ahead and let me just say
8 this and then I think we can go off the record.

9 Judge Hill is coming up here and we've got the
10 courtroom deputy here, I believe. Between the two of them, maybe
11 they can train me.

12 So is there anything else we need to do on the record
13 here from the government's perspective?

14 MR. REGAN: Not from the government, Your Honor.

15 THE COURT: Mr. Unglesby.

16 MR. UNGLESBY: No, sir.

17 THE COURT: All right. And one other thing I wanted to
18 put in there.

19 And this is important, Mrs. Caton.

20 Mr. Caton, you need to understand this, too.

21 I expect Mr. Caton to report to pretrial services as I
22 instructed earlier so we can get this presentence report
23 prepared. I'm going to also instruct you to report every week to
24 the probation office in Lake Charles, or they may want to come to
25 your house, whatever they say, but that would be once a week, Mr.

1 Caton. Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: That would be between now and the date of
4 the sentencing.

5 THE DEFENDANT: I understand.

6 THE COURT: Okay. And I'm not sure I understand the
7 benefit of getting the opportunity to self-report, but after your
8 sentence, it would be my intention, assuming you've abided by all
9 of these conditions, that I'll allow you to self-report. I think
10 you get some benefit within the Bureau of Prisons. It will help
11 you. So I'm inclined to do that as long as you do everything
12 you're supposed to do between now and the date of sentencing.
13 Okay?

14 THE DEFENDANT: I understand, Your Honor.

15 THE COURT: Okay. Thank you. We're off the record.

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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF LOUISIANA
3 LAFAYETTE-OPELOUSAS DIVISION
4

5 UNITED STATES OF AMERICA :
6 vs. : DOCKET NUMBER 04-20075
7 GREGORY JAMES CATON :
8

9 CERTIFICATE OF REPORTER

10 I, LaRae E. Bourque, Official Court Reporter for the
11 United States District Court, Western District of Louisiana,
12 do hereby certify that the foregoing 72 pages are a true and
13 accurate transcript of the proceedings had in this matter,
14 as hereabove set forth, and that I have no interest of any
15 nature whatsoever regarding the ultimate disposition of this
16 litigation.

17 I further certify that the transcript fees and format
18 comply with those prescribed by the Court and the Judicial
19 Conference of the United States.

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24 Official Court Reporter
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