

1 continued, you know, not to get any -- any response to  
2 that beyond the acknowledgment of October.

3 So now that brings us back to the point of it's  
4 January 18, 2010. We get a letter from the branch  
5 advising us to send the card and those sequence of  
6 events, as already described, ensued, which brings us  
7 forward to the week of February 23rd, 2010.

8 So pursuant to our complaint and pursuant to  
9 what appeared to possibly be an act of discipline toward  
10 Paul Koehler, now comes Paul Koehler back with Steve  
11 Misterfeld, and unbeknownst to us, this was with a view  
12 towards having a tribunal hearing to review our apparent  
13 error in communicating with the branch office, providing  
14 additional details ahead of a statement that we were  
15 ready to follow any direction they would give.

16 Q. Okay. Now the discussion was commenced that  
17 Friday?

18 A. Yes.

19 Q. And --

20 A. Again, that's Friday, February 26, 2010.

21 Q. So when did it conclude?

22 A. Well, that was another interesting point. The  
23 discussions are usually occurring Friday with the  
24 visiting traveling overseers, managers, and that  
25 discussion however did not conclude on Friday. It

1 recessed, which is unusual.

2 So basically Steve Misterfeld listened to our  
3 input on the situation, and he adjourned the meeting and  
4 said we would convene the next day, Saturday,  
5 February 27th.

6 We met at the meeting facility upstairs, and at  
7 the start of the meeting he stated that he had reflected  
8 on the matter, the discussion from the previous evening,  
9 and decided that the entire body of elders should be  
10 removed, and that he and Paul Koehler would be  
11 submitting a letter that would be sent, presumably by  
12 U.S. mail, to the branch office, Christian Congregation  
13 of Jehovah's Witnesses, Patterson, New York, stating the  
14 recommendation for our removal.

15 Q. So from there, what transpired? For example,  
16 the following day -- or let's back up.

17 What was the reason now for the removal of four  
18 individuals?

19 A. The reason, as stated by Steve Misterfeld, is  
20 that the entire body of elders would be removed for its  
21 failure to comply with an organizational directive, in  
22 reference to the letter received from the branch office  
23 calling for the membership card, the S-21 card to be  
24 sent to the congregation in Sonoma.

25 Q. Does that seem like the -- in line with the

1 normal process of things; in other words, removing four  
2 individuals for the responsibility of one?

3 A. No. And when you say the responsibility of  
4 one, I'm -- typically there is one elder who has a role  
5 called secretary that will handle the responsibilities  
6 of sending the cards and so forth. It could be argued  
7 that all of the elders signed the letter that went back  
8 to the branch office, but the principal duty typically  
9 is assigned to the secretary to follow through with the  
10 actual sending of the cards.

11 Our body sent the response again providing  
12 additional details with a view towards making sure they  
13 had the full facts and understood the situation  
14 accurately, because it wasn't clear to us that it had  
15 been presented accurately by the individuals from  
16 Sonoma.

17 So, yeah, no, it was very unusual. Everything  
18 was unusual. The meeting was unusual. Really not being  
19 given an agenda that provided pertinent details of  
20 consideration. We weren't told that we were heading  
21 into a tribunal hearing. We thought it was just a  
22 regularly scheduled meeting and discussion, but it  
23 turned into a tribunal hearing.

24 Paul Koehler sat in judgment of us, despite the  
25 fact we had complained about him, which is not

1 consistent with -- the rule of thumb is to find -- as  
2 articulated by the governing body as based on the  
3 scriptures, must have impartiality and so forth.

4 There's even statements in the Watchtower  
5 magazine that say, if a person is in a tribunal hearing,  
6 and they have hard feelings or a point of concern with  
7 one of the elders, that it can be accommodated that a  
8 different elder would participate or that particular  
9 elder may not participate.

10 And I think it had been pretty well established  
11 we had hard feelings toward Paul Koehler based on his  
12 erratic behavior.

13 Q. So was that ever addressed in the discussion  
14 with Mr. Misterfeld and Mr. Koehler?

15 A. Again, the answer is no. The simple statement  
16 made by Steve Misterfeld, when the point was raised  
17 about our complaint about Paul Koehler, again, is he  
18 asserted that Paul Koehler had done nothing wrong.

19 Q. How did the four individuals feel after  
20 receiving this decision on the part of Mr. Koehler and  
21 Mr. Misterfeld?

22 A. Shocked, surprised, confused, unhappy.  
23 Frustrated. Puzzled is probably the biggest word.

24 Q. Unbelievable?

25 A. Unbelievable, yeah. Totally inconsistent with

1 everything we had ever been taught or learned as far as  
2 how matters are handled. In fact, a matter like that,  
3 based on the body of what we've been taught and learned,  
4 should not have even come to a tribunal hearing. It  
5 should never have come to that or been considered in  
6 such a form.

7 It would have been a matter of more so a  
8 statement being made of here's some counsel, here's what  
9 you would want to do in that circumstance, a reminder,  
10 and then off you go. So for it to even reach the point  
11 of being a tribunal hearing was shocking, and for the  
12 result of that tribunal hearing to be the entire body of  
13 elders being removed was that much more shocking.

14 Q. Was there any feeling of ulterior motives here  
15 at play?

16 A. Yes. On two levels. And this kind of gets  
17 into what happened the next day. But on two levels at  
18 the time, at the immediate moment of being advised that  
19 the whole body of elders had been removed, I personally  
20 had a feeling that this was some type of prank or  
21 practical joke.

22 I began to think, we had just submitted a  
23 letter of complaint about Paul Koehler, and here it was  
24 that he didn't show up to the meeting thereafter.

25 Q. That Sunday?



1           A. That Sunday that we've already talked about,  
2 which kind of suggested that he had been given some type  
3 of discipline of some kind. So I thought this was a  
4 very elaborate form of pay back. I thought it was  
5 something that he did to give us a good scare, and that  
6 feeling deepened the following day when -- as we  
7 customarily do, we have a meeting, a private meeting  
8 ahead of the public meeting for the bodies of elders and  
9 for the members of the service committee and so forth,  
10 to review the report for that week.

11           So when a traveling brother comes to a  
12 congregation, you know, to provide a report at the end  
13 of the week, it's called an S-303. It's a designated  
14 form that's used by the organization, and on that form  
15 there are several points of information that the circuit  
16 overseer would provide.

17           He'll provide information concerning, you know,  
18 the elders' residence, so forth. He'll provide the  
19 average attendance for the meetings, statistics, things  
20 of that nature. So it's about a total of nine questions  
21 that he'll complete as part of his report.

22           So interestingly, when we gathered on Sunday  
23 morning, this was February 28th, 2010, Sunday morning,  
24 we review the report, and we get to point nine, which  
25 says, "Were there any serious problems in the

1 congregation that you assisted in handling during your  
2 visit? If so, clearly describe the matter below. Tell  
3 us who were involved, what you did to assist, and what  
4 still needs to be done."

5           So typically when a traveling overseer handles  
6 a matter of a serious nature, he will reference it on  
7 the report, the S-303 report, under point nine. He will  
8 do that one of two ways. He will either type "see  
9 attached," or he will begin -- in most cases he will  
10 write any information or input that he will have on the  
11 S-303 report, and if he needs more space, he'll provide  
12 an attachment.

13           I mention that because on this particular  
14 occasion we got to point nine on the report as Paul  
15 Koehler was walking through it, and point nine was  
16 completely blank. There wasn't any information at all  
17 provided, which was strange, because having a meeting  
18 and deciding that you're going to remove the entire body  
19 of elders certainly would qualify as a serious problem  
20 in the congregation, so you would expect it to be  
21 mentioned on the report.

22           Q. How did you focus on the point nine? Were  
23 you --

24           A. Well, that was the interesting thing. Very  
25 interesting sequence of events occurred. We went

1 through the report, you know, one through eight -- or  
2 one through seven, and that takes you to the point where  
3 you've got to turn the report over to see points eight  
4 and nine.

5           When Paul Koehler turned the point over -- or  
6 turned the report over, right away you see information  
7 on point eight, and naturally I would look at point  
8 nine, and I see it's blank. So he talked about point  
9 eight.

10           When he got to point nine, he repositioned the  
11 report on the table, put both of his hands on the  
12 report, and then he specifically pointed or gestured  
13 towards point nine. He didn't say anything, but his  
14 facial expression, his body language, the gesture, all  
15 of it conveyed the basic message that I'm not including  
16 the reference to the meeting in the report, which  
17 created the impression in myself and the other  
18 individuals assembled -- we had talked about it  
19 afterwards.

20           The impression was that the previous tribunal  
21 hearing was a joke. It was a ruse, it was a prank, it  
22 was a way of getting back at us for having submitted a  
23 complaint about him. And it -- and he had kind of set  
24 up this moment during the week, because during the week  
25 he kept saying, "in my next assignment" or "when we go



1 to our next assignment" or "when we go" -- as if he was  
2 dropping phrases and statements to generate the  
3 impression that our perception of what had taken place  
4 was true.

5 We sent a letter of complaint. Charles Valorz  
6 benched him. He got disciplined, and pursuant to that  
7 discipline he was going to be taken out of the  
8 assignment early and reassigned elsewhere. So  
9 everything that he was saying and doing during that  
10 particular visit in February 2010 lent itself towards  
11 you having that conclusion. It was a week long con, if  
12 you will.

13 And so his antics and his statements during the  
14 week heading up to this particular moment where here you  
15 have the report and there's nothing on the report for  
16 point nine, meaning he's not reporting the matter being  
17 the impression. So I looked at him with an expression  
18 of -- with an expression of disgust, based on what my  
19 perception was at that moment.

20 And he began to look like a person who has  
21 sheepishly kind of been caught in something, and so, you  
22 know, I give him an Academy Award. It was very well  
23 done, everything. He acted like someone who had kind of  
24 reached the end of the joke, and now it's clear that it  
25 was a joke, and he had to stand there and face the

1 music.

2 He said, "Well, it's been nice serving you all,  
3 being here," and basically he was saying good-bye. You  
4 know, it all had the feeling of someone riding off into  
5 the sunset, end of movie, end of story.

6 Steve Misterfeld began to act nervous and -- as  
7 if we were at this point where we had discovered the  
8 ruse, and he was exhibiting sort of a mock fear factor  
9 or concern that we were going to report him now. And as  
10 we were leaving the room, he was, you know, talking.  
11 "We really enjoyed meeting you," "we really enjoyed  
12 seeing you." He had this nervous tone.

13 It all added to the impression they had pulled  
14 a fast one. They had played a dirty little trick. They  
15 had kind of abused the process for the sake of a measure  
16 of revenge, because now Paul Koehler was being  
17 reassigned because he was disciplined. That was the  
18 whole thrust of it.

19 There wasn't any statement, "We really are  
20 sending a recommendation for your removal." It was all  
21 one big joke, and there was no need for us to appeal  
22 anything or do anything, that it was just a lie, and  
23 that's the way we took it.

24 Q. So would you view that as misrepresentation,  
25 trying to take advantage in some way?

1           A. Well, yeah, because you have to look at the  
2 implications of what they did, what was the result of  
3 this ruse, of this misrepresentation. In fact, under  
4 law, it's material misrepresentation. That S-303 report  
5 constitutes material evidence of a fraudulent  
6 representation, and since wire fraud is an element of  
7 your case, we have to keep in mind that that statute --  
8 I think it's 1343 -- it does not -- it is not subject to  
9 a technical definition of fraud as in common law,  
10 meaning you don't have to jump through all the hoops of  
11 establishing a technical basis of fraud.

12           You know, wire fraud is referred to as the  
13 weapon of choice for the United States prosecutor,  
14 because that law is extremely flexible and adaptable.  
15 All you have to establish is that there was some form of  
16 a trick or some form of an overreaching, a manipulation,  
17 a misrepresentation. Just a trick basically. And now  
18 you have the basis of mail fraud and wire fraud and  
19 everything that goes with it.

20           But despite that, that S-303 report is physical  
21 evidence, and it is material evidence of an act of  
22 deception, the report, in conjunction with his behavior,  
23 in conjunction with Steve Misterfeld's behavior, not  
24 only during that meeting but their behavior thereafter.

25           During the meeting Steve Misterfeld kept

1 looking over like he was trying to read my face. It was  
2 all about selling the idea that they had messed up, and  
3 now maybe we might respond and complain again. And it  
4 was masterfully done.

5 So that report is evidence of the deception in  
6 conjunction with the relevant testimony. And the  
7 implications of it are this.

8 Everything that the defendants in your case  
9 have done, or I should say the basis for every single  
10 thing that they have done -- Ernest Brede, Contreras,  
11 Laverdure, Lucas, all of them, Koehler. The basis for  
12 everything that they have done was born from that  
13 meeting, because it was at that meeting where this  
14 tribunal hearing occurred in bad faith, because there  
15 was already a predetermined outcome, there was already  
16 prejudgment there.

17 It was already a plan to push the body of  
18 elders serving in Menlo Park out of the way. That was  
19 already a decision, that was already an intent, that was  
20 already the idea. That tribunal hearing was simply a  
21 vehicle to effect that decision that had already been  
22 made before Paul Koehler and Steve Misterfeld set foot  
23 on Menlo Park soil.

24 So pursuant to that meeting and pursuant to  
25 that decision and pursuant to the ruse that induced our



1 belief that there was no need to send any letters of  
2 appeal at that time during the established appeal  
3 window, because it was all a big joke anyway, which made  
4 it easier for them to rubber stamp this decision, not  
5 having to go through any secondary review process,  
6 because we didn't appeal during the established window.

7           So we were on the clock after that meeting, and  
8 we didn't even know it, because we thought it was all a  
9 big joke. And that was the beauty -- if I can use that  
10 word liberally, that was the beauty of their deception,  
11 because it convinced us there was no need to send any  
12 correspondence, because it was all a big joke.

13           So pursuant to that, we moved forward from  
14 February 2010 to May 2010, and I get in the mail a  
15 letter from the Christian Congregation of Jehovah's  
16 Witnesses advising that I and my fellow elders have all  
17 been removed from our position of spiritual oversight  
18 pursuant to their review of the letter that was mailed  
19 presumably by U.S. mail from Paul Koehler and Steve  
20 Misterfeld.

21           So pursuant to the report that they sent in by  
22 U.S. mail and a review of that without the benefit of  
23 any review of an appeal from us, because we didn't think  
24 there was anything -- any need to send it in, then the  
25 decision had been made to remove the entire body of

1 elders, thus completing that phase of the scheme to get  
2 us out of the way.

3           So this is the interesting point. You're  
4 asserting mail fraud. You're asserting wire fraud.  
5 Those laws are identical, and the application of them  
6 are identical. So, again, it simply encompasses a  
7 trick. It's not necessary for someone to defraud you of  
8 millions of dollars per se. It's not always even  
9 necessary to establish a material misrepresentation as  
10 part of the fraud in the case of mail or wire fraud.

11           It helps, and it exists in this case by virtue  
12 of that S-303 report and the surrounding testimony of  
13 its significance as presented at that meeting. But we  
14 have here a trick, and the United States mail system was  
15 a vehicle in executing that trick. Wire communications  
16 were a vehicle in executing that trick.

17           And what's the result of that trick? Is there  
18 any loss or damage pursuant to that trick? And that's  
19 where we begin to bring into clear focus the  
20 significance of the actions or the alleged actions of  
21 the defendants.

22           Ernest Brede -- when Ernest Brede took the  
23 stage in November 2010 and lied to the members regarding  
24 the balance of funds on hand in the building fund,  
25 saying it was \$3,500, when the bank records that are now

1 a point of record in both proceedings establish that it  
2 was upwards of \$20,000, when he got on stage and lied,  
3 he provided a material act of deceit.

4 And the result of that deception is that it had  
5 a natural tendency to induce contributions, and that's  
6 where we go to California Corporations Code 6812. In  
7 describing that specific act, it says, if a person were  
8 to do that, who presents themselves as having a level of  
9 responsibility in a corporation, if they gave a false  
10 financial report as to the condition of the corporation,  
11 it is a crime.

12 So the only way that Ernest Brede could ever  
13 have been in position to effect that crime that he  
14 committed was by virtue of the material deception as  
15 perpetrated by Paul Koehler and Steve Misterfeld,  
16 because that was the direct trigger for the removal of  
17 the body of elders serving in the Menlo Park  
18 congregation.

19 This is all one composite collective scheme.  
20 So one element and one action at a certain phase  
21 triggers the next event, and then the next event. It's  
22 exactly like what we see when these individuals set up  
23 these massive domino mazes. You tip one domino, it  
24 knocks over the next domino, and the next, and the next,  
25 and the next, and thousands of them will fall down in

1 order. But it starts with that first one.

2 So the removal of the elders in Menlo Park was  
3 a key step in the furtherance and execution of a scheme  
4 that had already been established prior to February  
5 2010. In fact, it is my personal belief that the letter  
6 that was sent by the congregation elders serving in  
7 Sonoma, that letter complaining about the lack of  
8 delivery of the S-21 card or the membership card, was in  
9 itself a part of the scheme.

10 They sent the letter to the branch. Then the  
11 branch sent the letter to us calling for the card to be  
12 sent, and it should have already been known that, by our  
13 nature and close ties to the member in question, we  
14 would have provided additional details ahead of  
15 executing that request, and that was specifically  
16 targeted and leveraged as a means to allege  
17 insubordination to the end of the body of elders being  
18 removed.

19 So there's a basis of argument that the letter  
20 from the congregation in Sonoma was an act of mail  
21 fraud, because it was sent in furtherance of a scheme,  
22 and, again, a scheme that was devised and put in motion  
23 long before February 2010 when the body of elders were  
24 advised that a recommendation for the removal would be  
25 submitted.



1           So everything that is a concern now, bank  
2 fraud, money laundering, you know, anything you have  
3 down there as an accusation, is the direct result of the  
4 overall scheme. But it is a direct result of the scheme  
5 that was executed at a particular juncture and phase  
6 relative to the removal of the body of elders in Menlo  
7 Park ahead of the assumption of spiritual oversight by  
8 Ernest Brede, Aaron Lucas, Larry Laverdure, Luis  
9 Contreras and all those individuals as named defendants.

10           Q. So as far as you're concerned, this raises to  
11 the level of above -- well, in addition to a civil  
12 matter, it's a criminal matter?

13           A. There's no question it's a criminal matter.  
14 Bank fraud is a crime. It says right there in the  
15 California Corporations Code 6812. If you give a false  
16 financial report, and it's a willful and intentional  
17 thing, and it's designed to induce contributions, it  
18 ends by saying it is a crime. There aren't too many  
19 ways to interpret that.

20           And then in CA Corporations Code Section 6813,  
21 it says, if there had been any false entries into the  
22 financial records for a corporation, which almost has to  
23 happen, because if you're giving a false financial  
24 report, then in all likelihood you have to make a false  
25 entry in the records to substantiate it upon scrutiny.

1           And so the -- that's why that's an added point  
2 of allegation, that there's been a modification of the  
3 records, a falsification of the records. California  
4 Corporations Code 6813 clearly describes that behavior  
5 and concludes by saying it is a crime.

6           We all know that money laundering is a crime,  
7 and so the assertion of money laundering may not be  
8 fully founded at this juncture. But the feeling is,  
9 upon acquisition of the outstanding bank records, there  
10 will be evidence that will substantiate the allegations  
11 of laundering with a view towards not only enrichment  
12 but tax evasion.

13           MR. COBB: Okay. Let's take a break. I know  
14 you're probably tired.

15           (Recess.)

16           (Record read.)

17 BY MR. COBB

18           Q. All right. So we're back from break, and we're  
19 going to continue our line of questioning. This is in  
20 relation to the feeling that the defense has that this  
21 is a first amendment issue.

22           Is it your feeling that what was done and what  
23 you described previously was centered around a religious  
24 issue?

25           A. No. I believe the setting for what took place

1 as described was religious, but I feel that the acts and  
2 the overall context for those acts within a collective  
3 scheme are more secular than religious.

4 Q. Okay. So now it would appear that -- to your  
5 understanding, that this is not a first amendment issue.

6 A. Well, when you say first amendment issue, are  
7 you referring to the free exercise clause?

8 Q. Yes.

9 A. Freedom of religion?

10 Q. Excuse me, I should have clarified myself.

11 A. The free exercise clause was not intended to  
12 serve as a get out of jail free card for religiously  
13 motivated actions that infringe upon law.

14 Q. So were there -- you mentioned previously that  
15 you felt that there were ulterior motives when it came  
16 to the deception that was -- the alleged deception that  
17 was perpetrated by Mr. Misterfeld and also Mr. Koehler.

18 Do you feel like there were any other concerns,  
19 perhaps some that would benefit them or benefit their  
20 group or benefit who they were part of in a monetary  
21 way?

22 For example, the Kingdom Hall has been  
23 appraised at \$2.3 million. Do you feel that had some  
24 bearing on this overall scheme, if you will, alleged  
25 scheme?

1           A. Yes, I do. I believe the Kingdom Hall is the  
2 object or I should say a key object of the scheme. It  
3 is not the sole object, but it clearly was one of the  
4 key objectives, executing a transference of operational  
5 control of that property.

6           Q. Okay. So now you feel that defendants can rely  
7 upon a Serbian abstention to justify -- strike that.

8           A. Abstention.

9           Q. Okay. Do you feel like that would be a defense  
10 in this matter based upon what you know about the case  
11 and what you have related about it?

12           A. And you're referring to the doctrine of  
13 abstention?

14           Q. Yes.

15           A. Okay. I don't feel that abstention creates a  
16 basis of escape for the defendants in this case. The  
17 reason is the doctrine of abstention has its place, but  
18 it has to be balanced in the face of constitutional law.

19                   Constitutional law, as recently shaped by the  
20 Department of Administration versus Smith established or  
21 reaffirmed the original thinking and rationale of the  
22 founding fathers relevant to the free exercise clause  
23 and the resulting doctrine of abstention.

24                   The free exercise clause is intended to allow  
25 freedom of religion. It is not intended to establish a



1 basis of autonomy for criminal behavior as motivated by  
2 religious conviction. The founding fathers established  
3 that the freedom to believe is absolute, but the freedom  
4 to act upon belief, which is to say religious belief, is  
5 not absolute.

6 In fact, they use the words, the freedom of  
7 action based upon belief cannot be absolute. And that  
8 was Cantwell versus Connecticut where that statement was  
9 made. And the reason for that statement was a general  
10 concern that, if the freedom to believe or the freedom  
11 to act was absolute as related to religion, then it  
12 would allow an individual to become a law unto himself  
13 by virtue of his religious convictions, which is exactly  
14 what I feel describes the attitude and conduct of the  
15 defendants in this case.

16 They have assumed a level of autonomy by virtue  
17 of their religious beliefs and their religious  
18 convictions to the exclusion of law, secular law, and,  
19 in my personal opinion, divine law as well, and that  
20 makes me angry. Because in doing so, the defendants  
21 have misrepresented Jehovah, God. In doing so, they  
22 have misrepresented who Jehovah's Witnesses are as an  
23 organization and as a people, and they have  
24 misrepresented what Jehovah's Witnesses, Christian  
25 followers of Christ, stand for.

1           The defendants have endeavored to orchestrate  
2 the perception that their entire range of activity is  
3 known by the governing body and sanctioned by the  
4 governing body and directed by the governing body, and  
5 that is a lie.

6           The governing body would never support or  
7 endorse any criminal act that infringes upon God's  
8 standards, Bible principles or law.

9           In this case, there is an exception to the  
10 doctrine of abstention that may come into play going  
11 forward. The exception to the doctrine of abstention  
12 was originated in a past case -- I'm trying to find the  
13 reference to it here. Gonzalez -- yes, Gonzalez versus  
14 Archbishop.

15           So the abstention doctrine was originated in  
16 Watson versus Jones, and that's where the decision was  
17 made that, in view of the free exercise clause, Courts  
18 would abstain from any review of matters of church  
19 discipline, since they were not qualified to evaluate  
20 the decisions, rationale and circumstances leading to  
21 decisions by church tribunals.

22           Pursuant to Watson versus Jones, the case  
23 Gonzalez versus Archbishop introduced the idea of an  
24 exception to the doctrine of abstention. In that case,  
25 the Court stated, in absence of fraud, collusion or

1 arbitrariness, the decisions of proper church tribunals  
2 on matters clearly ecclesiastical are accepted in  
3 litigation before the secular courts as conclusive.

4           So they were affirming the thought from Watson  
5 versus Jones of Courts abstaining from review of church  
6 tribunal decisions. However, there was a qualification  
7 for that that was introduced in Gonzalez versus  
8 Archbishop saying, whatever the churches decide and  
9 whatever they do shall be beyond the review of the  
10 church in the absence of fraud, collusion or  
11 arbitrariness.

12           So the next case that came along to refine that  
13 concept was the Serbian case. Serbian Orthodox Diocese  
14 versus Milivojevich. That's 1976. The short reference  
15 for that case is Serbian. Now there the Supreme Court  
16 evaluated the concept of an abstention exception as  
17 articulated in Gonzalez, but they changed it, they  
18 refined it.

19           They removed arbitrariness as a consideration  
20 for marginal Court review of church decisions regarding  
21 discipline. So that is to say, if a church wants to  
22 remove a person from a position of authority because  
23 they're left-handed, they have the right to do that  
24 without any inquiry from the Court.

25           But in Serbian, they did not remove collusion

1 or fraud as elements for consideration to determine  
2 whether or not the basis exists for marginal Court  
3 review in instances involving church discipline, which  
4 is interesting.

5 They did not endorse Court review under such  
6 circumstances, but the Supreme Court did not rule it out  
7 either. In Serbian, two expressions were coined;  
8 Serbian collusion and Serbian fraud. So we're familiar  
9 with legal terms collusion and fraud as defined in  
10 common law and State and Federal and constitutional law,  
11 but Serbian collusion and Serbian fraud carry a  
12 particular distinction.

13 So what the Court was articulating on that  
14 occasion in that case is, actions of a church along the  
15 lines of collusion and fraud that could be reviewed by  
16 the Court would constitute these elements, Serbian  
17 fraud, Serbian collusion.

18 And basically what that is saying is the Court  
19 stated that if a church tribunal or judicial committee  
20 convenes and hears a matter in bad faith, meaning that  
21 they have an ulterior motive, some type of fraudulent  
22 intent relative to that tribunal hearing, if they do  
23 that, convene a tribunal hearing in bad faith by virtue  
24 of collusion and/or fraud -- and here's the key -- with  
25 a view to a secular purpose, then that would constitute



1 Serbian collusion, Serbian fraud and in legal theory  
2 create a basis of inquiry or review if even marginally  
3 by the Court.

4 So what we're seeing there or what the Court is  
5 seeing there, I think, is directly relevant to this  
6 case. I believe that every single requirement, every  
7 single requisite criteria and element that is needed to  
8 utilize this exception to the doctrine of abstention  
9 exists in your case.

10 Has there been collusion? Yes. I believe that  
11 the individuals from the congregation in Sonoma who know  
12 personally firsthand Leonardo Trevino, the chairman of  
13 RBC #7, I believe them sending that letter raising  
14 concern about the S-21 card was a meditated act that was  
15 intentionally intended to establish the basis for the  
16 branch, Christian Congregation of Jehovah's Witnesses in  
17 Patterson, New York, to then send that letter to us on  
18 January 18, 2010, directing that the card be sent.

19 And then that created the basis for everything  
20 that occurred thereafter with the arrival of Koehler and  
21 Misterfeld. So when they came, they already had a clear  
22 idea of what they wanted to do, a clear mission, if you  
23 will, to remove our body of elders for any number of  
24 reasons; we're in the way, we weren't getting the  
25 program as regards how the building should be used or