

1 before I was working for the Virgin Islands Government.

2 Q At the trial -- at the hearing, you were not  
3 working for the Virgin Islands Government?

4 A At the hearing, I was. That was in July, correct?

5 Q Yes. And -- and your written direct testimony was  
6 offered into evidence at that time, is that correct?

7 A That's correct.

8 Q So you were in fact working for the Virgin Islands  
9 Government at the time of the hearing?

10 A That's correct.

11 Q And at that time you knew or at least assumed that  
12 you really hadn't lost any money, isn't that correct?

13 A I made that statement I believe at the hearing.

14 Q That you hadn't lost any money?

15 A That I was back in the pension system. I don't  
16 know how much I lost as a result of being out those two  
17 years. But I certainly lost the amount of accrued  
18 contributions during that period of time.

19 Q And you made that statement at the hearing?

20 A I don't believe directly in that way. There were  
21 a number of questions about it, but I was unsure as to what  
22 I had gained or lost by being back in the system.

23 Q But you were sure you were back in the system at  
24 that time?

25 A Yes.

1 Q There's no doubt about that?

2 A Well, they were taking contributions out of my  
3 paycheck. And I believe I made that testimony at the  
4 initial hearing.

5 Q Now, does the -- does the Virgin Islands  
6 Government have a department that is responsible for  
7 administering its retirement system?

8 A Yes, they do.

9 Q And does the employees retirement system publish a  
10 handbook?

11 A They have a handbook, yes, which I brought to the  
12 deposition.

13 Q In other words, the answer is yes.

14 A Yes.

15 Q And does the handbook explain how the retirement  
16 system works?

17 A Yes, it does.

18 Q And does the handbook provide a formula to enable  
19 an employee to determine what his retirement salary would  
20 be?

21 A It does.

22 Q And did you consult this handbook before you  
23 drafted Schoenbohm 7?

24 A No. Oh, you mean the -- Schoenbohm 7 was the one  
25 that was submitted?

1 Q Yes, at the trial.

2 A At the trial, no.

3 Q At the hearing, excuse me.

4 A At the initial hearing, no.

5 Q And did you consult the handbook before offering  
6 Schoenbohm 7 into evidence?

7 A I mentioned at the deposition that I had just  
8 gotten this handbook.

9 Q No, the --

10 A It was the only question available at the time.

11 Q The question is no, is that correct?

12 A No. The answer --

13 Q The answer is no, excuse me. Does the retirement  
14 system have a staff?

15 A Yes.

16 Q And aren't there some staff members who are  
17 supposed to be knowledgeable of retirement requirements?

18 A I would presume so.

19 Q Isn't there at least one representative from the  
20 system who is accessible to answer questions about the  
21 benefits and obligations of the -- of the retirement system?

22 A I'm not aware. I would imagine so. But we've had  
23 a lot of problems with the retirement system. And there's  
24 been --

25 Q So your feeling is that there is at least one

1 person there, one consultant?

2 A But whether or not they can -- in fact, I have a  
3 newspaper clipping that I brought that says the government  
4 employees retirement system is in limbo. Ninety percent of  
5 the employees don't know what benefits they're going to  
6 receive.

7 Q So what's your answer? You think there is  
8 somebody or not?

9 A Well, you asked a question about if there was  
10 somebody really knowledgeable. And I -- I really --  
11 according to this newspaper article, the answers you get are  
12 not really necessarily from the GERS, the true facts of the  
13 matter because the matter is still in much contention.

14 Q Now, did you consult with anybody from the  
15 retirement system before you claimed that you had lost  
16 \$150,000.00 in pension rights?

17 A No. No, I did not.

18 Q Did you try to consult with anybody in the system?

19 A No, I did not.

20 Q Now, employees are not prohibited from seeking  
21 information about the retirement -- how the system works,  
22 are they?

23 A I was not an employee at the time.

24 Q How about former employees?

25 A I don't know.

1 Q Are they restricted?

2 A I -- again, I believe that as a former employee, I  
3 was out of the system and I had no benefits that were coming  
4 to me by being in the system.

5 Q So to the best of your knowledge, you were not  
6 prohibited from seeking information?

7 A I really don't know. I presume not.

8 Q When you were fired in 1992, did you ask what  
9 happened to your pension? Did you ask about it?

10 A No.

11 Q Did you ask what the status of it was?

12 A No.

13 Q Did you ask if you were entitled to anything?

14 A No.

15 Q Had you contributed any money to the system?

16 A Yes.

17 Q Is that what you told us at the -- at the hearing?

18 A I don't recall in that particular question. I --

19 Q Now, former employees who have contributed to the  
20 retirement fund are not prohibited from asking questions  
21 about their contributions, are they?

22 A No.

23 Q And you didn't bother to ask any questions.

24 A No, I did not.

25 Q How much did you contribute to your retirement

1 fund?

2 A I don't know.

3 Q And did the Government contribute any money to the  
4 fund?

5 A I -- I believe the -- it's set up so they do.

6 Q Do they match your funds?

7 A Well, there is a formula in that handbook which I  
8 have a copy of that explains exactly what the match is.

9 Q But you think the Government did put some money  
10 in?

11 MR. COLBY: When?

12 BY MR. REIDELER:

13 Q From the time -- from the beginning when you began  
14 work.

15 A I would hope they did.

16 Q So when you claim that you lost \$150,000.00, you  
17 really didn't know how much money you had in the retirement  
18 system at that time, did you?

19 A I did not.

20 Q And the \$150,000.00 that you claimed you lost was  
21 based on the assumption that you continued to work for the  
22 Virgin Islands until retirement, is that correct?

23 A That's correct.

24 Q And how many years did you intend to work before  
25 you retired?

1           A     Well, I -- I never thought on how many years I  
2 would work.

3           Q     Well, you must have thought something to come up  
4 with a figure of \$150,000.00.

5           A     Oh, you mean when I formulated that. It was based  
6 on -- on retiring and living 15 years past retirement as a  
7 reasonable figure. And the annual retirement benefits would  
8 be in the vicinity of \$10,000.00 or more. That's how that  
9 was based.

10          Q     So how many years would that have been?

11          A     I'm sorry?

12          Q     How many years would it have been before you could  
13 make this claim to receive the \$150,000.00 from the --

14          A     It -- since I was an employee of the police  
15 department, there was a -- there is an early retirement  
16 provision that requires only 20 years of service. As an  
17 employee of the general government, it requires 30 years of  
18 service.

19          Q     Well, when you did your calculation -- I assume  
20 you did some sort of calculation.

21          A     It was based on 20 years of work --

22          Q     And so you --

23          A     -- for full retirement benefits as a member of the  
24 safety division: police, firemen, sanitation workers. They  
25 have a 20 year option. Whereas now, today, I have a 30 year

1 option.

2 Q Then my -- if my arithmetic is correct, you would  
3 have had to work another eight years, is that correct?

4 A Based on 12, yes.

5 Q Now, the money for these eight years, assuming you  
6 made a contribution and the Government made a contribution,  
7 wasn't in the retirement account yet, was it?

8 A I don't know.

9 Q I mean, you -- you have to be working to put the  
10 money in, isn't that correct?

11 A You have to be employed --

12 Q Yes.

13 A -- in order to make contributions.

14 Q So in other words, for those years -- those eight  
15 years that you had to wait -- that you were required to wait  
16 for retirement, there was no money in that system for those  
17 eight years yet. That would be -- constitute going into the  
18 future.

19 MR. COLBY: I didn't understand the question, Your  
20 Honor.

21 JUDGE LUTON: I don't either.

22 BY MR. REIDELER:

23 Q You had eight -- according to your calculations,  
24 if you worked for 20 years for the -- for the Government of  
25 the Virgin Islands, you would be eligible for retirement.

1 Your retirement would be \$10,000.00 a year by your  
2 calculations.

3 A Or more.

4 Q Or more. Let's just assume it was \$10,000.00 for  
5 argument's sake. This was assuming that you continue to  
6 work for eight years, isn't that correct?

7 A Yes.

8 Q And you -- and each year or each month, each  
9 payday you work, you would contribute a certain amount of  
10 money into your retirement fund, is that correct?

11 A That's correct.

12 Q And you believe that the -- the Government also  
13 contributed a certain amount of money into the retirement  
14 account.

15 A That's correct.

16 Q So at the time you were fired, you had eight years  
17 to go. There was no money in the service -- in the -- in  
18 the system for those eight years yet, is that correct? It's  
19 something in the future --

20 MR. COLBY: Your Honor, I object on the grounds of  
21 relevancy. What difference does it make?

22 MR. REIDELER: I think it makes a big difference,  
23 Your Honor. We're talking about a claim of \$150,000.00  
24 loss. And I think we can get to this as we go on. But he  
25 has to have some basis for this loss. And that's what I'm

1 trying to find.

2 JUDGE LUTON: I think this whole issue doesn't  
3 amount to much quite frankly. Go ahead. I'm going to  
4 overrule you for the time being, Mr. Colby.

5 BY MR. REIDELER:

6 Q Now, you had no guarantee that you would reach  
7 full retirement, is that correct? There's no guarantee you  
8 would work -- would be employed at the federal -- at the  
9 Government of the Virgin Islands for another eight years.

10 A Well, there's a union contract, if that's a  
11 guarantee or not.

12 Q But you had been fired once, isn't that correct?

13 A Oh, are you talking about before or after?

14 Q When you -- when you made the claim that you had  
15 lost \$150,000.00 --

16 A That's correct.

17 Q -- you assumed you were going to work for another  
18 eight years, isn't that correct?

19 A No. I didn't say that. I said I would be  
20 eligible to retire --

21 Q Well, you --

22 A -- I believed I would be eligible to retire after  
23 20 years of service.

24 Q But wasn't the assumption that you had to at least  
25 reach retirement age? Isn't that correct?

1           A     Well, there are many people that offer early  
2 retirement and there are many people that work beyond the  
3 retirement age --

4           Q     Okay.

5           A     -- or year.

6           Q     Well, if you're offered earlier retirement, do you  
7 still receive the \$10,000.00 a year or whatever figure it  
8 was?

9           A     There is a formula and it is a certain percentage  
10 of -- of your actual annual salary.

11          Q     Well, what did you think -- how long did you think  
12 you would work to -- to -- to justify the loss of  
13 \$150,000.00?

14          A     The -- to justify the loss of \$150,000.00 referred  
15 to what benefits I would have received upon retirement which  
16 I had lost by no longer being in the retirement system.  
17 Believing that I would have at least gotten \$10,000.00 per  
18 annum for a period of 15 years equates to \$150,000.00.

19                JUDGE LUTON: All right. That's clear.

20                BY MR. REIDELER:

21          Q     But there is no guarantee that you would -- would  
22 not be fired for some other reason, isn't that correct?

23          A     I don't --

24                JUDGE LUTON: Of course not.

25                BY MR. REIDELER:

1 Q And when you were fired from the -- from the  
2 Government, you weren't prohibited from earning a living,  
3 were you?

4 A No.

5 Q And you're not prevented from finding another job?

6 A No, of course not.

7 Q And you weren't prohibited from investing in  
8 another retirement plan, isn't that correct?

9 A It's very expensive.

10 Q But the --

11 A If you don't have a job, it's very difficult.

12 Q Well, the -- the question is were you or were you  
13 not prevented --

14 A I was not prevented, no, except by the size of my  
15 earnings.

16 Q Now, did you find employment after being fired  
17 from -- from the Government?

18 A Yes.

19 Q And you could have put some money in a retirement  
20 account, isn't that correct?

21 A No.

22 Q You couldn't have created your own private  
23 retirement account?

24 A Not on what I was making.

25 Q But there was no -- no prohibition against you; no

1 law saying you cannot establish --

2 A I was limited by the amount of money I was earning  
3 at the time.

4 Q Isn't it a fact, Mr. Schoenbohm, that the only  
5 loss of retirements you could reasonably claim was the  
6 balance of money that you had in your retirement account  
7 when you were fired?

8 A No.

9 Q Isn't that correct?

10 A That's not correct.

11 Q Isn't it correct that at that time, you didn't  
12 know what that amount was?

13 MR. COLBY: What amount?

14 MR. REIDELER: The amount that was in the  
15 retirement account when you were fired.

16 MR. COLBY: That's irrelevant what was in the -- I  
17 object to the relevancy. It was irrelevant what was in his  
18 retirement account.

19 JUDGE LUTON: Overruled.

20 BY MR. REIDELER:

21 Q You didn't know how much was in your retirement  
22 account --

23 A No, I did not.

24 Q So there's really no credible basis for the claim  
25 of the loss of \$150,000.00.

1           A     Yes, there was.  If one retires at a certain age  
2     and the average amount of the -- amount of the retirement  
3     annual check is a certain amount, I would -- I believed and  
4     I still do that I would have received that money upon  
5     retirement.

6           Q     But we're talking about something eight years in  
7     the future, aren't we?

8           A     That's true.

9           Q     You didn't have enough money in that retirement  
10    account at the time you were fired to generate a \$10,000.00  
11    a year --

12          A     The annuity is not --

13          Q     -- income digit.

14          A     -- based on contributions, Mr. Reideler.  It is  
15    based on years of service.

16          Q     In other words, if someone makes \$5,000.00 a year,  
17    they will retire with as much money as somebody who makes  
18    \$50,000.00 a year?

19          A     No.  No.  The formula is based upon what your  
20    average -- average annual salary is.

21          Q     But you didn't --

22          A     But not on contributions in the system.

23          Q     How did you know this formula at that time?

24          A     I didn't.

25          Q     Then how did you come up with the number of

1 \$150,000.00?

2 A I explained it several times. I came up with  
3 \$150,000.00 based on a \$10,000.00 per annual retirement  
4 annuity for 15 years.

5 Q But where did you get this information?

6 A Talking, as I explained to you before -- talking  
7 with other people who had retired from the same service,  
8 what they were getting with similar salaries.

9 Q You felt that -- that just talking to somebody who  
10 got a similar salary to you was -- was more -- was -- was a  
11 better reference point than going to the retirement system  
12 and talking to the officials who administer the system?

13 A As I stated --

14 JUDGE LUTON: He didn't state that. He didn't say  
15 it would be better. He's just telling you that that's how  
16 he did it.

17 BY MR. REIDELER:

18 Q You -- you preferred to do that?

19 JUDGE LUTON: He didn't say he preferred it  
20 either. He just said he did it. I don't have a lot of  
21 patience for this issue quite frankly. I think this is  
22 nothing much. How --

23 MR. REIDELER: Yes, Your Honor.

24 JUDGE LUTON: -- how much more do you have?

25 MR. REIDELER: That's it. We can --

1 JUDGE LUTON: I mean, this is -- I -- I guess --

2 MR. REIDELER: But our position is, Your Honor,

3 that --

4 JUDGE LUTON: The remand had to be based on

5 something in here --

6 MR. REIDELER: That this claim is preposterous.

7 That's our --

8 JUDGE LUTON: Well, yes. That's your position.

9 And I know that's -- that's the matter that's sent back here

10 for exploration. But whether -- really as I perceive the

11 issue, whether Mr. Schoenbohm was truthful when he testified

12 that his conviction has cost him \$150,000.00 -- well, I

13 don't know what to do with that. Now, you're --

14 MR. REIDELER: That's all the questions I have on

15 that issue, Your Honor. Mr. Schoenbohm --

16 JUDGE LUTON: I wish I could give it the same  
17 treatment that I gave it the first time, just ignored it.

18 But I can't. Now I've got to say something about it and

19 I'll say something. But I don't think that I'm going to be

20 able to find Mr. Schoenbohm culpable on that one I'll tell

21 you now. But we'll see what the evidence shows at the tail

22 end. Let's proceed.

23 BY MR. REIDELER:

24 Q Mr. Schoenbohm, do you enjoy being a HAM?

25 A Yes, I do.

1 Q And you pursued this hobby for quite a while?

2 A Over 30 years.

3 Q And you made a lot of friends over the years I  
4 presume.

5 A Yes, I have.

6 Q And a few enemies, as well?

7 A Yes, I have.

8 Q And you've played an active part in matters  
9 concerning amateur radio, is that correct?

10 A I believe so.

11 Q Would you say you're fairly well known in the  
12 amateur community?

13 A Yes.

14 Q Now, your conversation with Mr. Swan was via HAM  
15 radio, isn't that correct?

16 A That's correct.

17 Q And any -- anyone at that amateur radio could have  
18 actually intercepted this conversation, is that correct?

19 A I believe so.

20 Q And was the conversation with Mr. Swan as it is  
21 transcribed? In other words, was it in English?

22 A It was.

23 Q It wasn't in cryptic scramble or secured in any  
24 other --

25 A No, it was not.

1 Q -- way? So any English speaking amateur in  
2 addition to intercepting it, could have understood what was  
3 said, is that correct?

4 A Yes.

5 Q Now, it's not unusual for HAMS to monitor  
6 transmissions, is it?

7 A No, I don't believe so.

8 Q And aren't there approximately 800,000 HAMS in the  
9 United States?

10 A I don't know the actual amount.

11 Q But it's considerable, wouldn't you say? Over  
12 100,000?

13 A I would believe so, yes.

14 Q And isn't it possible that some of these HAMS  
15 could have overheard the conversation between you and Mr.  
16 Swan?

17 A It's possible.

18 Q And wasn't it possible that some of these HAMS  
19 might have known you?

20 A Yes.

21 Q And might have -- isn't it possible that they  
22 might have known the predicament that you were in; in other  
23 words, you were fighting to have your license renewed?

24 A It's possible, yes.

25 Q And isn't it possible that some of them might even

1 sympathize with your plight?

2 A Yes.

3 Q Now, where did you -- where did you acquire your  
4 newly discovered knowledge of the ex parte rule?

5 A From my attorney, Mr. Colby.

6 Q Why did you feel it was necessary to consult an  
7 attorney about ex parte restrictions?

8 A He felt it was necessary --

9 MR. COLBY: I -- I object to -- attorney-client  
10 privilege. I don't think it's proper to ask what went on  
11 between counsel and the Witness.

12 JUDGE LUTON: I didn't understand that to be the  
13 question. He wasn't asking what went on between you and  
14 your lawyer. He said what persuaded you that it would be a  
15 good idea to talk to your attorney about this or seek your  
16 attorney's advice.

17 MR. COLBY: Your Honor, I have no objection to  
18 that question.

19 JUDGE LUTON: It was something like that.

20 MR. REIDELER: That was --

21 JUDGE LUTON: Is that a reasonable approximation  
22 of it?

23 BY MR. REIDELER:

24 Q Why did you -- why did you feel it was necessary  
25 to consult with your attorney about ex parte restrictions?

1           A     Mr. Colby just informed me of this -- of this  
2     particular statute or requirement or rule.

3           Q     So you didn't approach Mr. Colby?

4           A     No.

5           Q     And was this because you had asked others to  
6     intervene on your behalf before?

7           A     I had written some letters before the hearing.

8           Q     Now, why were you expounding on your newly  
9     discovered knowledge to Mr. Swan about ex parte rules?

10          A     I always expound about my knowledge of the FCC  
11     rules on the air.

12          Q     Well, how did this topic come up?

13          A     I believe from the -- from the transcript, one  
14     thing we're hampered with is the fact that the questions  
15     asked by Mr. Swan are not available. We only have one side  
16     of the conversation.

17          Q     Is your answer you don't recall how it came up?

18          A     We were discussing so many things that day, a  
19     broad area of -- of --

20          Q     Well, I think the answer is you recall or you  
21     don't recall.

22          A     I don't directly recall how it -- how we started  
23     talking about that, no. It might have been in response to a  
24     question from Mr. Swan.

25          Q     Now, the topic of conversation -- one of the

1 topics anyway was the renewal of your license, isn't that  
2 correct?

3 A That's correct.

4 Q And it's your position that you weren't seeking  
5 assistance from Mr. Swan?

6 A Not directly.

7 Q Not directly. In other words, you were seeking  
8 assistance but in an indirect way --

9 A No.

10 Q -- is that correct?

11 A No. No. It was -- it was a description. It was  
12 a characterization of what I thought that someone could do.  
13 My understanding of the ex parte rules at the time were that  
14 it prohibited anybody from contacting someone in the  
15 decision-making process or suggesting that someone contact  
16 someone in the decision-making process.

17 Q So, let's see, I'm a little confused by your  
18 answer. I asked if you were seeking assistance from Mr.  
19 Swan. And you said not directly.

20 A No, I was not. Directly is --

21 Q But you were seeking assistance -- in other  
22 words --

23 A I was not seeking it indirectly or directly. What  
24 I was seeking to do --

25 Q Then your answer is no.

1 A All right --

2 JUDGE LUTON: Let the Witness finish his -- finish  
3 his answer.

4 THE WITNESS: What I was seeking to do is expound  
5 on my knowledge of the ex parte rule and that's -- I can  
6 understand now how that came to be an issue in this  
7 particular matter. But it was not my direct or indirect  
8 intent to have Mr. Swan do anything.

9 BY MR. REIDELER:

10 Q So, again, your answer is, no, you were not  
11 seeking assistance from Mr. Swan --

12 A Yes.

13 Q -- either direct or indirect.

14 A That's correct.

15 Q You were just telling him what the restrictions  
16 were, is that correct?

17 A I was trying to.

18 Q By -- you were telling him what he couldn't do, is  
19 that correct?

20 A What I believed was improper under the --

21 Q What you couldn't do --

22 A -- under my understanding of the ex parte rule.

23 Q You're telling him -- in other words, you're  
24 telling him what you could not do. You couldn't -- you  
25 couldn't solicit help.

1           A     That's correct.

2           Q     And what you -- by telling him what you couldn't  
3 do, weren't you really telling him what he could do if he  
4 wanted to help?

5           A     No.

6           Q     What was your intent when you -- when you told him  
7 that he might convey to the gentleman that not renewing your  
8 license could have a negative impact on the people of -- of  
9 the gentleman's constituency?

10          A     That was a -- a description of a format. And I  
11 think I made that clear in the deposition.

12          Q     We're not at the deposition. We're at the hearing  
13 right now, sir.

14          A     All right. Okay. That was a description of the  
15 format in which a particular response could take.

16          Q     So you're saying you didn't tell him what he could  
17 do, but you told him how he could do it, is that correct?

18          A     I didn't ask him to intervene in my particular  
19 matter, directly or indirectly. What I was trying to  
20 explain was the format in which communication with  
21 congressmen, a member of Congress, could have. If you  
22 recall at the time, I was being considered for a job with  
23 Congressman Frazer. And my desire to provide constituent  
24 service was predicated on my knowledge of trying to be  
25 helpful and assist people in the relationship with the

1 Federal Government.

2 Q But to go back, my question, were you -- weren't  
3 you kind of telling what he could do if he wished?

4 A No. Well, yes, I guess you could say that's what  
5 he could do, what he was permitted to do.

6 Q And -- and then by --

7 A That had --

8 Q -- by showing --

9 A -- no direct basis on this particular proceeding  
10 in trying to interfere with this as my knowledge of the ex  
11 parte rules at the time.

12 Q And by telling him what the format would be,  
13 weren't you sort of telling him how to do it?

14 A Well, I guess you could say that.

15 Q So you've told him what he could do and how to do  
16 it, isn't that correct?

17 A How to do what?

18 Q To --

19 A To interfere in this proceeding?

20 Q To do something on your behalf.

21 A No.

22 Q Now, you're more than happy to provide all  
23 information that Mr. Swan wanted about how he could -- now,  
24 what is the -- excuse me, let me back up. Now, what is Mr.  
25 Swan supposed to do? If he's not helping you, what --

1 what's the purpose?

2 A Mr. Swan asked questions and I responded to them.  
3 I thought I was providing him information.

4 Q And what were these questions? What was the gist  
5 of the questions?

6 A Wanted to know the address, the name of our  
7 congressman in the Virgin Islands --

8 Q Did he say why?

9 A -- and his address --

10 Q Did he say why he wanted the address?

11 A No.

12 Q Then how did -- how did it come up about the  
13 format? What -- what was the -- how did that part of the  
14 conversation come up?

15 A In response to questions from Mr. Swan.

16 Q But Mr. Swan -- there must have been some reason  
17 why Mr. Swan wanted the address of the congressman.

18 A There must -- no, I don't believe he did. He  
19 never wrote. He never corresponded with the congressman.  
20 He had no -- I don't believe he had ever any intent to do  
21 that.

22 Q But the conversation just began what's the --  
23 what's the address of your congressman?

24 A As I said before, it was a format on how to  
25 communicate with someone in Congress.