

Exhibit 3

1 TODD HYMAN - CONFIDENTIAL

2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 ----- X

5 UNITED STATES OF AMERICA,)

6 Plaintiff,) NO. 1:13-CV-06326

7 -vs-) (TPG)

8 PREVEZON HOLDINGS, LTD, FERENCOI)

9 INVESTMENTS LTD, KOLEVINS LTD,)

10 et al.,)

11 Defendants.)

12 ----- X

13

14 DATE: October 6, 2015

15 TIME: 9:47 a.m.

16

17

18 CONFIDENTIAL VIDEOTAPED DEPOSITION OF

19 TODD HYMAN, a 30(b)(6) witness, held at the offices

20 of Baker Hostetler, 45 Rockefeller Plaza, New York, New

21 York, pursuant to Subpoena, before Hope Menaker, a

22 Shorthand Reporter and Notary Public of the State

23 of New York.

24

25

1 TODD HYMAN - CONFIDENTIAL

2 A P P E A R A N C E S

3 US ATTORNEYS OFFICE

 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 Attorneys for the Plaintiff

 1 St. Andrews Plaza

5 New York, New York 10007

 BY: PAUL MONTELEONI, ESQ.

6 MARGARET GRAHAM, ESQ.

7

8 BAKER HOSTETLER

 Attorneys for the Defendant

9 Washington Square - Suite 1100

 1050 Connecticut Avenue NW

10 Washington, D.C. 20036-5304

11 - and -

12 45 Rockefeller Plaza

 New York, New York 10111

13 BY: JOHN W. MOSCOW, ESQ.

 NICHOLAS M. ROSE, ESQ.

14 LOURA L. ALAVERDI, ESQ. (Remote Participant)

15 BAKER BOTTS LLP

 Attorneys for Defendants

16 The Warner

 1299 Pennsylvania Avenue NW

17 Washington D.C. 20004-2400

 BY: VERNON CASSIN, ESQ.

18

19 ALSO PRESENT:

20 Jose Rivera - Videographer

21 Nataliya Veselnitskaya (Remote participant)

22 Gabriella Volshiteyn (Remote Participant)

23

24

25

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2 Q. Were you representing the United
3 States?

4 A. Yes, I was.

5 Q. Other than that and this, have you
6 testified for the United States or otherwise?

7 A. Could you be a little more specific?
8 When? Are you talking about in other cases?

9 Q. Have you ever testified?

10 A. Yes, I have.

11 Q. When?

12 A. In other cases in the course of my
13 work career.

14 Q. How many times have you testified?

15 A. A few. I don't recall exactly how
16 many.

17 Q. Two? Thirty? Is it a hundred?

18 A. No. More than two, three times. I
19 don't recall the exact amount.

20 Q. In what forums have you testified?

21 A. I've given grand jury testimony, you
22 know, witness.

23 Q. You've given grand jury testimony in
24 this case?

25 A. No, I have not.

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2 Q. Have you given grand jury testimony
3 in other cases?

4 A. Yes, I have.

5 Q. How many times?

6 A. I believe once.

7 Q. How many times have you testified at
8 trial?

9 A. In this occupation or in others?
10 I've been a witness --

11 Q. How many times in your life have you
12 testified at a trial?

13 A. I believe once or twice.

14 Q. What was the first one?

15 A. In a prior employment, just as a
16 witness.

17 Q. You said "just as a witness." Were
18 you sworn?

19 A. Yes.

20 Q. Are you sworn today?

21 A. Yes, I am.

22 Q. Do you understand that to be a
23 witness is a serious matter?

24 A. Yes, I do.

25 Q. Okay. Did you testify more than once

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2 Q. Is it your testimony that you do not
3 know whether you are required to give disclosure
4 of subpoenas to the other side in a civil case?

5 MR. MONTELEONI: Objection.

6 A. I think that would be a legal
7 question, whether or not I would disclosure
8 requirements, so I'm unaware of them.

9 Q. Are you an agent of the United
10 States?

11 A. Yes, I am.

12 Q. Are you bound by its laws?

13 A. Yes, I am.

14 Q. Direct your attention to Exhibit 6.

15 A. May I move the clip?

16 Q. Yes.

17 MR. MONTELEONI: I'm going to object
18 to the -- to the use of a -- of material
19 that's included in this that was
20 inadvertently disclosed and request that it
21 be clawed back under the -- under the Federal
22 Rules.

23 MR. MOSCOW: You're kidding, right?

24 MR. MONTELEONI: Well, we can take
25 this up at a later time, but for the --

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2 MR. MOSCOW: No.

3 MR. MONTELEONI: -- several pages of
4 this were inadvertently disclosed and under
5 the Federal Rules we're -- we're requesting
6 their return.

7 MR. MOSCOW: Let's go -- let's go by
8 page. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

14 THE WITNESS: Would you like this
15 back?

16 MR. MOSCOW: No.

17 Q. Is it the position of the government
18 that it is not proper to disclose grand jury
19 subpoenas?

20 MR. MONTELEONI: Objection, calls for
21 a legal conclusion.

22 [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

11 MR. MONTELEONI: Yes. We're asking
12 for the return of those -- those were
13 inadvertently disclosed and we're requesting
14 the procedure for segregating them and
15 adjudicating their return under the Federal
16 Rules be followed.

17 The remainder of the document you, of
18 course, can ask the witness about.

19 MR. MOSCOW: I hear your request.
20 I'm not acceding to it. I'm not deciding it.
21 I am noting merely that the witness said
22 before that he thought that grand jury
23 subpoenas -- I'm sorry -- he was not clear
24 whether grand jury subpoenas were produced to
25 the defense or not.

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2 Is it the position of the United
3 States that grand jury subpoenas should not
4 be produced to the Defendants?

5 MR. MONTELEONI: Yes, I think --

6 MR. MOSCOW: I'm -- I really --

7 MR. MONTELEONI: This is a legal
8 issue, this really isn't for the witness. I
9 think we've been clear that the -- the
10 subpoenas themselves are not discoverable.
11 This one was inadvertently disclosed and
12 we're requesting its return.

13 The materials returned pursuant to
14 the subpoenas are discoverable and have been
15 produced in discovery. But one way or the
16 other, these are really not questions for the
17 witness.

18 MR. MOSCOW: They go to very much to
19 the question of whether this is a civil or
20 criminal case.

21 Q. So let me ask again of the United
22 States, is this case a civil case or a criminal
23 case?

24 A. It is a civil case.

25 Q. Is this a case in which grand jury

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2 subpoenas are being used to obtain documents?

3 A. The investigation uses grand jury
4 subpoenas to invest -- to further the
5 investigation. Some of the material obtained
6 pursuant to the subpoenas have been used in the
7 case.

8 Q. So let me focus on that.

9 There is an investigation going on?

10 A. Correct.

11 Q. Who are the targets?

12 MR. MONTELEONI: Objection. I'm
13 going to instruct the witness not to answer
14 on the grounds of law enforcement privilege.

15 Q. Is Dennis Katsyv a target?

16 MR. MONTELEONI: Same objection, same
17 instruction.

18 Q. Alex Litvak a target?

19 MR. MONTELEONI: I'm going object and
20 instruct the witness not to answer on grounds
21 of law enforcement privilege.

22 Q. Is Timothy Krit a target?

23 MR. MONTELEONI: I'm going to object
24 to that and instruct the witness not to
25 answer on the grounds of law enforcement

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2 privilege.

3 Q. Is there a criminal investigation
4 ongoing?

5 MR. MONTELEONI: You can answer.

6 A. Yes.

7 Q. Into whom?

8 MR. MONTELEONI: Objection. I'm
9 going to instruct the witness not to answer
10 to the extent that it would reveal nonpublic
11 information about an ongoing criminal
12 investigation on the grounds of law
13 enforcement privilege.

14 Q. Into what events?

15 MR. MONTELEONI: One moment.

16 (Whereupon, a brief discussion was
17 held off record.)

18 MR. MONTELEONI: To the extent that
19 this question calls for -- for specifics
20 besides the general subject matter of the
21 investigation, I'm going to object to that
22 and instruct the witness not to answer on the
23 basis of law enforcement privilege.

24 But as to the general subject matter,
25 you can answer.

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2 A. Can I just have a moment to consult
3 with the attorney?

4 Q. Are you conducting the
5 investigations?

6 A. Again -- can I have -- yes, I am
7 conducting the investigation.

8 Q. Do you know what it's into?

9 A. Yes.

10 Q. Can you answer that without
11 consulting with him or do you want to consult with
12 him?

13 A. I'd like to consult with him.

14 Q. Be my guest.

15 THE VIDEOGRAPHER: The time is
16 10:37 a.m. and we're going off the record.

17 (Whereupon, there was a brief recess
18 in the proceedings.)

19 THE VIDEOGRAPHER: The time is
20 10:44 a.m. We're back on the record.

21 BY MR. MOSCOW:

22 Q. Have you consulted with counsel?

23 A. Yes, I have.

24 Q. What was the investigation into?

25 MR. MONTELEONI: Again, the -- I'm

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2 going to object and instruct the witness not
3 to answer to the extent that the answer
4 reveals nonpublic specifics about an ongoing
5 investigation.

6 But the witness is free to answer as
7 to the general subject matter.

8 MR. MOSCOW: Okay, look, thank you.
9 If you're objecting and saying that he can't
10 give a can full and conditional complete
11 answer, the oath traditionally was do you
12 swear to tell the true, the whole truth and
13 nothing but the truth. If counsel's
14 objection limits your ability to do that,
15 please don't answer. We can deal with the
16 objection subsequently.

17 MR. MONTELEONI: Again --

18 MR. MOSCOW: I don't know. I have no
19 idea what you're talking about there.

20 MR. MONTELEONI: So -- so then
21 perhaps if -- if you object to the witness
22 answering subject to that instruction perhaps
23 ask a different question that doesn't
24 implicate the categories that I've just
25 discussed.

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2 But again, he is -- he is permitted
3 to answer to the extent that we didn't
4 instruct him not to answer. Again, he's
5 permitted to answer as to the general subject
6 matter. If you want to ask him a question
7 just about that to make a cleaner record,
8 that's fine, but --

9 MR. MOSCOW: Let me --

10 Q. I direct your attention to Exhibit 6,
11 Page 93282. Is that a letter to you?

12 A. Yes, it is. A copy of a letter.

13 Q. Does it outline the -- whether or not
14 there are responses -- whether or not there were
15 information found about the names contained on the
16 subpoena?

17 A. Yes, it does.

18 Q. Is the -- what is the time period
19 that the █████ searched for the information sought?

20 A. Pursuant to the letter, they searched
21 from June 5th, 2009 to June 4th, 2014.

22 Q. That would be five years, correct,
23 approximately?

24 A. Approximately.

25 Q. And that would be after the events

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2 contained in the bulk of the Exhibits 1, 3 and 5?

3 A. After some of the events in the those
4 exhibits, yes.

5 Q. You called for information, among
6 other things, about Dennis Katsyv, Alex Litvak,
7 Peter Katsyv and Timothy Krit; is that correct?

8 A. I don't see all of the names, but
9 some of the names I see.

10 Q. If you look five lines and four lines
11 from the bottom on Page 282 --

12 A. Right.

13 Q. -- and then go --

14 A. On here, okay. I see them.

15 Q. All four of those people's financial
16 information is called for, correct?

17 A. I believe --

18 MR. MONTELEONI: Objection.

19 Misstates the document.

20 Q. Did you receive a CD from the [REDACTED]

21 A. Yes, we did.

22 Q. Did it contain information responding
23 to search terms, giving the four names of the four
24 human beings I gave you?

25 A. Partially because there's a

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2 misspelling of one of the names in the subpoena
3 response.

4 Some of the names that you've
5 mentioned are on the subpoena response, but
6 there's one name that they have misspelled in
7 their search in their response.

8 If you'll -- I'll direct your
9 attention to US-PREV093283.

10 Q. Are you talking Peter Katsyn rather
11 than Katsyv?

12 A. Right. That's what I'm referring.

13 Q. Go up a couple of lines more to
14 Irina -- to the three names above Peter Katsyn, do
15 those also apply to individuals?

16 A. Yes.

17 Q. Now, as to -- as to Dennis Katsyv and
18 Alex Litvak, does the letter indicate that there
19 was a potentially responsive hit?

20 A. I know there's Litvak and what was
21 the other name?

22 Q. Dennis Katsyv.

23 A. Yes, it indicates that.

24 Q. Did you follow up on that?

25 MR. MONTELEONI: Objection.

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2 A. Well, to the -- to the extent of
3 you're viewing the material provided, yes.

4 Q. Did you call for personal financial
5 data from Alex -- regarding Alex Litvak?

6 MR. MONTELEONI: Objection.

7 A. To the extent provided in the
8 subpoena response, yes.

9 Q. What did you do with it when you got
10 it?

11 A. Again, we reviewed the information,
12 placed it into work product such as Excel
13 spreadsheets and examined the data.

14 Q. Did you notify Litvak or Katsyv that
15 you had subpoenaed their personal financial data?

16 MR. MONTELEONI: Objection.

17 A. No, we did not.

18 Q. Did you bring it into the grand jury
19 room?

20 MR. MONTELEONI: Objection. I'm
21 going to instruct the witness not to answer
22 on the grounds of Rule 6(e).

23 Q. Did you bring it into the grand jury
24 room?

25 MR. MONTELEONI: Same objection.

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2 Same instruction.

3 Q. Were you required by law to bring it
4 into the grand jury room?

5 MR. MONTELEONI: Objection. This is
6 really not a question for this witness.

7 MR. MOSCOW: It is a question. He's
8 an agent of the United States, he's a law
9 enforcement agent and he should not be heard
10 to say he doesn't know the law that he's
11 supposed to be following and upholding.

12 So if he says he doesn't know, that's
13 an answer. If the United States doesn't
14 know, that, too, is an answer. He cannot say
15 that as a law enforcement agent he doesn't
16 choose to decide -- he doesn't choose to
17 answer whether he broke the law. That's not
18 an option. So --

19 MR. MONTELEONI: Counsel, this is
20 really beyond the scope of a 30(b)(6)
21 deposition. A Rule 30(b)(6) deposition goes
22 to fact. It really can't be used as a --

23 Q. Did you --

24 MR. MONTELEONI: -- substitute --
25 could I just finish my objection, counsel?

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2 MR. MOSCOW: Sure.

3 MR. MONTELEONI: It can't be used as
4 a substitute for taking the deposition of an
5 attorney.

6 We're -- we're -- we're giving broad
7 leeway to ask questions about facts,
8 including a number of facts that really
9 are -- are neither here nor there with
10 respect to the case.

11 But when you're just asking him to --
12 how much he remembers certain U.S. statutory
13 provisions, that's really getting into the
14 territory of trying to depose an attorney
15 and we're going to object.

16 Q. I direct your attention to page 325
17 of a volume U.S. Code Annotated 12, directing your
18 attention to the sentence 3420.

19 Could you please read into the record
20 the four lines -- five lines on that page, bottom
21 of the page.

22 MR. MONTELEONI: Objection to all
23 this. You can read those lines.

24 A. Which page are you talking about?

25 MR. MONTELEONI: We would ask that

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2 this book be marked as an exhibit and we be
3 provided copies if you're really going to do
4 this which we think is -- is really just a
5 waste of everyone's time.

6 Q. My assumption is that you're aware of
7 the U.S. Code Annotated.

8 A. Which page are you referring to?

9 MR. MONTELEONI: You're showing the
10 witness a document --

11 Q. Page 3425 (sic).

12 MR. MONTELEONI: -- we would request
13 a copy of it and we request that it be marked
14 as an exhibit. Are you going to do that?

15 A. 325?

16 Q. Yes.

17 MS. GRAHAM: Mr. Moscow.

18 MR. MONTELEONI: Counsel, if you're
19 showing the witness a document, you're asking
20 the witness to testify about the document,
21 we'd request it be marked as an exhibit and
22 we'd request a copy.

23 Q. Prior to September 1st, 2015, did you
24 issue any subpoenas pursuant to Rule 45 of the
25 Federal Rules of Civil Procedure in connection

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2 with the civil case?

3 MR. MONTELEONI: Objection.

4 A. You'd have to explain. I'm not sure
5 I understand your question. And are we skipping
6 the last question?

7 Q. Counsel wants copies of the statute
8 that defines our conduct, so we're going to get
9 them. So with that question is withdrawn at the
10 moment. We will return.

11 Do you know the difference between a
12 grand jury subpoena and another subpoena?

13 A. Yes.

14 Q. Did you issue any subpoenas that were
15 not grand jury subpoenas before September 10th,
16 2015 in connection with this case?

17 MR. MONTELEONI: Objection.

18 A. Yes.

19 MR. MONTELEONI: You can answer if
20 you know.

21 A. Yes.

22 Q. Did you give notice?

23 A. No, I did not.

24 Q. To whom did you issue subpoenas?

25 A. I personally did not issue the

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2 subpoenas.

3 Q. To whom did the United States issue
4 subpoenas?

5 MR. MONTELEONI: Objection.

6 A. I believe -- answer? I believe it
7 was to the Fed wire system as well.

8 Q. Not grand jury subpoenas? The
9 question was did you issue subpoenas that were not
10 grand jury subpoenas prior to September 1st, 2015?

11 A. Yes, we did and I believe they were
12 to the Fed wire system.

13 Q. Did you give us notice?

14 A. Not that I'm aware.

15 Q. That is to say us, the Defendants in
16 the civil case?

17 A. Not that I'm aware of.

18 May I consult with the attorney?

19 Q. You're not testifying for them.

20 A. I know.

21 Q. If you need to testify, you may.

22 MR. MONTELEONI: The witness wants to
23 consult, if we could just take a moment to
24 consult.

25 MR. MOSCOW: Fine, sure.

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2 THE VIDEOGRAPHER: The time is
3 10:56 a.m. and we're going off the record.

4 (Whereupon, there was a brief recess
5 in the proceedings.)

6 THE VIDEOGRAPHER: The time is
7 11:00 a.m. we're back on the record.

8 MR. MOSCOW: Can we have Exhibit 7,
9 please.

10 (Whereupon, Hyman Exhibit 7 was
11 marked at this time.)

12 BY MR. MOSCOW:

13 Q. Mr. Hyman, I'm going to read
14 something, I'm going to ask you if the -- if I've
15 read it correctly.

16 12 U.S.C.A. Section 3420. 3420,
17 grand jury information, notification of certain
18 persons prohibited, effective October 26th, 2001.

19 "(a), Financial records about a
20 customer obtained from a financial institution
21 pursuant to a subpoena issued under the authority
22 of a federal grand jury shall be returned and
23 actually presented to the grand jury unless the
24 volume of such records makes such return and
25 actual presentation impractical, in which case the

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2 grand jury shall be provided with a description of
3 the contents of the records."

4 Did I read that correctly?

5 A. Yes.

6 Q. Did you produce to the grand jury,
7 you or your other agents, produce to the grand
8 jury materials obtained from financial
9 institutions pursuant to grand jury subpoena?

10 MR. MONTELEONI: As before, I'm going
11 to object and instruct the witness not to
12 answer on grounds of Rule 6(e).

13 Q. You understand that the question is
14 whether you followed the law or broke it?

15 MR. MONTELEONI: Counsel, that's not
16 an accurate recitation of the question but in
17 any case, it's really not for the witness.

18 Q. You refuse to answer pursuant to
19 instructions?

20 A. I'm going to follow the advice of
21 counsel.

22 Q. Now, when you brought this case --
23 keep it with the exhibits -- when you first
24 brought the case which is Exhibit 1, what
25 investigation had you conducted at that time into

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2 3:05 p.m. and we're going off the record.

3 (Whereupon, there was a brief recess
4 in the proceedings.)

5 THE VIDEOGRAPHER: The time is
6 3:06 p.m. and we're back on the record.

7 BY MR. MOSCOW:

8 Q. Have you consulted with counsel?

9 A. Yes, I have.

10 Q. Who is in charge of the criminal
11 investigation?

12 A. The investigation is under the
13 jurisdiction of the Southern District of New York
14 handled by the United States Attorney's Office and
15 the investigators are coming from the Homeland
16 Security Investigations.

17 Q. What Assistant U.S. Attorneys are
18 working on it?

19 A. Assistant U.S. Attorney Paul
20 Monteleoni and others, at various times we have
21 Assistant U.S. Attorney Margaret Graham, but there
22 are others as well who also assist.

23 Q. What subpoenas have you served on
24 UBS?

25 A. We served subpoenas for wire records

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2 afternoon transactions.

3 Q. When?

4 A. Over the course of the investigation.

5 I don't recall the exact dates, but there were
6 multiple, several subpoenas.

7 Q. Were they after the Complaint was
8 filed?

9 A. Yes.

10 Q. Were copies provided to the
11 Defendants?

12 A. Copies of the subpoena returns were.

13 Q. Were copies of the subpoenas provided
14 to the Defendants in time for them to make any
15 applications that they might lawfully be entitled
16 to make?

17 MR. MONTELEONI: Objection.

18 A. I couldn't speculate as to -- again,
19 I'm not an attorney so I couldn't tell what you
20 the law requires you to -- or the time frames that
21 are involved in providing the information.

22 Q. Were these grand jury subpoenas or
23 trial subpoenas?

24 A. Grand jury subpoenas.

25 Q. After the Complaint was filed?

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2 A. Yes.

3 Q. As you got the information --
4 withdrawn.

5 From how many banks did you obtain
6 records in the United States pursuant to the
7 subpoena -- grand jury subpoena?

8 A. A large number of them.

9 Q. How many of those -- from how many of
10 those did you obtain records after the initial
11 Complaint was filed?

12 A. A lot of them. I couldn't give you a
13 precise number.

14 Q. How many of them called for records
15 of individuals?

16 A. Almost all of them.

17 Q. How many of the records were produced
18 to the grand jury as required by law?

19 MR. MONTELEONI: I'm going to object
20 and instruct the witness not to answer --

21 MR. MOSCOW: I don't blame you.

22 MR. MONTELEONI: -- on the grounds of
23 Rule 6(e).

24 Q. For how many of them did you file
25 follow the strictures of the federal -- pardon

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2 me --

3 MR. MONTELEONI: Right to Financial
4 Privacy Act?

5 MR. MOSCOW: Thank you very much.

6 Q. -- for the Right to Financial Privacy
7 Act?

8 MR. MONTELEONI: I'm going to object
9 and instruct the witness not to answer on the
10 grounds of Rule 6(e).

11 MR. MOSCOW: I don't think that
12 objection is well taken.

13 Q. Are you going to obey that
14 instruction?

15 A. Yes, I am.

16 Q. During the course of the
17 investigation, did you discuss whether your
18 conduct was lawful?

19 MR. MONTELEONI: I'm going to object
20 to any -- to the question to the extent it
21 calls for any discussion of attorney's mental
22 impressions, that's protected work product
23 under Rule 26.

24 But I do want to amend the previous
25 objection because there are other

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2 requirements of the Right to Financial
3 Privacy Act. The witness can answer about
4 other requirements of the Right to Financial
5 Privacy Act, if he knows, besides whether or
6 not matters were shown to grand jurors.

7 Because -- as to whether or not
8 matters were shown to grand jurors, I'm going
9 to object on the ground of Rule 6(e) and
10 instruct the witness not to answer.

11 MR. MOSCOW: That was the question.

12 Q. Going to Exhibit 3, how many pages is
13 it?

14 A. Including the exhibits attached to
15 it? The -- or just the actual Complaint itself?

16 Q. The Complaint itself?

17 A. Well, my verification is on Page 63,
18 then after that there's just the exhibits that are
19 attached to it.

20 Q. Okay. Going to Exhibit 5, the
21 proposed Complaint, do you have that?

22 A. Yes.

23 Q. How many pages is that Complaint?

24 A. Well, discounting the first
25 attachment one page and actually starting at the