

*Note: The following is the testimony of Thomas T. Demery in United States v. Dean, which ran from page 1888 to page 1941. This document was created from a scanned copy of the transcript and has a number of the imperfections one finds in scanned copies.*

1888

1 MR. WEHNER: We've agreed to the stipulations, Your  
2 Honor, and have no objection to the publication.

3 THE COURT: All right, thank you.

4 MR. O'NEILL: And while we do that, the third  
5 stipulation would be, "If called to testify, David Gitlitz would  
6 testify that he and Philip Winn once met with Deborah Gore Dean  
7 and her mother regarding the desire to develop the Gore  
8 family-owned property of Marwood."

9 MR. WEHNER: We agree to that stipulation, Your Honor.

10 THE COURT: All right, thank you.

11 MR. O'NEILL: At this time, Your Honor, the government  
12 would call Thomas Demery.

13 THE COURT: All right, thank you.

14 THOMAS T. DEMERY, GOVERNMENT'S WITNESS, SWORN  
15 DIRECT EXAMINATION

16 BY MR. O'NEILL:

17 Q. Mr. Demery, I will be asking you a series of questions. I'd  
18 ask you to speak in a loud voice and clearly so everyone can hear  
19 you on this jury.

20 Will you please state your name for the record,  
2 spelling your last name for the court reporter?

2 A. Thomas T. Demery, D-e-m-e-r-y.

2 Q. Mr. Demery, what, if anything, has been your primary  
2 occupation throughout your adult life?

2 A. Real estate development and finance.

1 Q. How long have you been in the real estate field?

2 A. Approximately 22 years.

3 Q. Did there come a point in time when you first went to the  
4 United States Department of Housing and Urban Development as an  
5 employee?

6 A. Yes.

7 Q. When did that occur?

8 A. I was a HUD contractor from 1981 to 1986. Then in 1986, I  
9 became assistant secretary for housing/federal housing  
10 commissioner until 1989.

11 Q. Now you stated in 1981, you became a HUD contractor. What  
12 would be the duties or responsibilities of a HUD contractor?

13 What did you do?

14 A. My duties were to advise the Office of Multi-Family Housing  
15 in Washington, D.C., on matters pertaining to the collection of  
16 delinquent multi-family debt in the States of Michigan and Ohio.

17 Q. How long did you remain in that position?

18 A. Until my nomination was announced by the White House in  
19 August of 1986.

20 Q. And what was that nomination for?

21 A. The office of assistant secretary for housing/federal  
22 housing commissioner.

23 Q. And how did you become the assistant secretary for  
24 housing/FHA commissioner?

25 A. I had approached the Office of Presidential Personnel. I

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1 had worked hard to receive that nomination once the position  
2 became vacant, and that task began a couple years before I got  
3 the call.

4 Q. And did there come a point in time when you received that  
5 nomination?

A. Yes.

7 Q. Can you describe for the Ladies and Gentlemen of the Jury  
8 what happens after you're nominated?

9 A. In my case, I was nominated in August. I moved to  
10 Washington, D.C. I was a, I think the appropriate title was a  
11 consultant of some sort pending my confirmation hearings. Once  
12 my hearings were held and I was confirmed by the United States  
13 Senate, I was sworn in.

14 Q. When were you sworn in?

15 A. October 21, 1986.

16 Q. As the assistant secretary for housing/FHA commissioner,  
17 what, if anything, are your duties and responsibilities?

18 A. My duties were to head the Office of Housing for HUD, and  
19 that office handled all matters pertaining to the Federal Housing  
20 Administration and federal housing programs, including the  
2 Section 8 program.

2 Q. Now, Mr. Demery, did there come a point in time when you  
2 pled guilty to two felony charges?

2 A. Yes.

2 Q. When did you enter those pleas?

1 A. June 17 of this year.

2 Q. What did you plead guilty to?

3 A. Accepting a gratuity and obstructing the grand jury.

4 Q. And what was involved in that, sir?

5 A. The gratuity charge involved accepting favorable terms and

6 administration of a second mortgage on my home, and the

7 obstructing the grand jury charge dealt with producing a false

8 receipt in response to a subpoena.

9 Q. Okay. What did that false receipt involve? What was, what

10 was that around? Let me withdraw that; that doesn't make any  
11 sense.

12 The false receipt, what does that involve?

13 A. It was a receipt acknowledging receipt of payment for the

14 use of a condominium in Vail, Colorado.

15 Q. Who owned that Colorado condominium?

16 A. Phil Winn.

17 Q. Now did you enter into a plea agreement with the United •

18 States government?

19 A. Yes, I did.

20 Q. What, if anything, is your understanding as to what that

2 agreement requires you to do?

2 A. To cooperate and give truthful testimony.

2 Q. Have you been sentenced as of today?

2 A. No.

2 Q. Do you have a sentencing date?

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A. No.

2 Q. Mr. Demery, let's return to the time when you became the

3 assistant secretary for housing/FHA commissioner. At the time

4 you accepted that position, were you aware of the Moderate

5 Rehabilitation Program?

6 A. I had been briefed on all the programs of, of housing. That

7 was one, yes.

8 Q. And when did you first have any actual hands-on experience

9 with the Mod Rehab Program?

10 A. Hands-on experience I would say was in late October/early

11 November.

12 Q. And can you describe for the Ladies and Gentlemen of the

13 Jury what, if anything, was that hands-on experience? How did  
14 you become involved in the Mod Rehab Program?

15 A. I had a conversation with Ms. Dean, I believe it was in her  
16 office, where there were approximately nine PHAs that were to  
17 receive funding. She gave me the nine PHAs that were to receive  
18 funding, and I then initiated the funding process.

19 Q. At that time, based on your experience, how was the Mod  
20 Rehab Program being administered?

21 MR. WEHNER: Your Honor, he's testified his first  
22 experience was in October 1986.

23 THE COURT: To the extent of his knowledge, he can say  
24 if he knows.

25 THE WITNESS: Could you repeat the question?  
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BY MR. O'NEILL:

2 Q. Sure. Using His Honor's wording, to the extent of your  
3 knowledge, how was the mod rehab being administered at that time,  
4 the program?

5 A. It was a program that was administered on a discretionary  
6 basis, and I was told what to fund.

7 Q. And who told you what to fund?

8 A. Ms. Dean.

9 Q. At that time, what was the defendant's position at HUD?

10 A. She was executive assistant to the secretary.

11 Q. And when you first arrived at HUD as a contract consultant,  
12 who was the secretary of HUD?

13 A. Samuel Pierce.

14 Q. Did you have any dealings with him during the period of time  
15 that you were a contract consultant?

16 A. No.

17 Q. Now you stated there came a time when you became the  
18 assistant secretary for housing. Can you describe your dealings  
19 with Samuel Pierce thereafter? How often did they occur?

20 A. The regular staff meeting was a weekly event, which occurred  
21 generally Tuesday mornings, and whenever there was testimony that  
22 had, the secretary had to give for, during budget hearings or any  
23 special hearings, generally there was a lot of activity preparing  
24 for those hearings, and on occasion, as issues would arise, I  
25 would meet with and consult with the secretary.

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1 Q. How often would you meet with him? Would you say it's  
2 daily? weekly? monthly? How would you describe it?

3 A. Putting aside the regular weekly meetings and the, the  
4 annual budget process, I'd say three times a month on an average.

5 Q. Mr. Demery, again based on your experience, how would you  
6 describe his management style?

7 A. The management style for HUD was detached. He left --it  
8 was --he did not get involved to any significant degree.

9 Q. Now previously you've mentioned, you testified as to certain

10 projects or allocations that were made in late October of 1986.

11 Can you describe what occurred in relation to these projects in  
12 the funding process?

13 A. The PHAs which were selected for funding letters were  
14 secured, letters were secured from the files that were held by  
15 Susan Zagame's staff. The funding paperwork was then initiated  
16 and executed by the appropriate people, including myself.

17 Q. Who made the decision on what projects to fund or what  
18 allocations to make?

19 A. Initially Deborah.

20 Q. Okay. And how did that come about?

2 A. As I said, I would visit with her in her office, or  
2 subsequent to that, early November or late -- excuse me, late  
2 October/early November meeting, on occasions she came down into  
2 my office and would give me some direction.

2 Q. Directing your attention to the fall of 1986, how often did

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1 you sign funding documents for the Mod Rehab Program?

2 A. I signed approximately a dozen documents.

3 Q. And can you describe -- well, let me ask you this: Was the  
4 funding, was the procedure or process by which you funded them  
5 similar each time?

6 A. Yes.

7 Q. Can you describe that for the Ladies and Gentlemen of the  
8 Jury?

9 A. The PHAs which were selected for funding was given to me  
10 either verbally or in writing after meeting with and consulting  
11 with Ms. Dean, and I would then contact the appropriate offices  
12 within my office for production of paperwork and --

13 Q. Did there come a point in time that you objected to the way  
14 the Mod Rehab Program was being run?

15 A. In December of 1986, I had wanted some clarification from  
16 Ms. Dean as to what the procedure, how the procedure was to work.

17 In January of 1987, I attempted to initiate some mod rehab  
18 fundings independent of discussions with Ms. Dean. My deputy for  
19 multi-family housing, who is part of the signature chain for  
20 these, for the paperwork to go through, refused to sign off  
2 without -- refused to sign off.

2 Q. Why did he refuse to sign off?

2 A. He refused to sign off because he was, he told me that he

2 was not able to sign off unless Ms. Dean told him it was okay.  
2 That then prompted me to request a meeting with Secretary Pierce,

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1 which occurred a few days following that event.

2 Q. Now we'll get to that meeting with Sam Pierce in a, in a  
3 moment. During this time period of approximately December of  
4 1986, based on your experience, what was Secretary Pierce's  
5 involvement in the Mod Rehab Program?

6 A. He had no direct involvement with me.

7 Q. I would direct your attention to the time frame between  
8 Christmas and New Year's of 1986, and did there come a point in  
9 time when you attended a meeting along with Secretary Pierce at  
10 which the Mod Rehab Program was discussed?

11 A. Yes. It was a, I believe it was a budget meeting, and he at  
12 that meeting asked a question of, I'm not sure to whom it was  
13 specifically directed, but he asked the question --

14 MR. WEHNER: Objection. Hearsay.

15 THE COURT: All right.

16 MR. O'NEILL: I'll withdraw it, Your Honor.

17 THE COURT: All right, withdrawn.

18 BY MR. O'NEILL:

19 Q. Now, Mr. Demery, did there come a point in time you had this  
20 meeting with Secretary Pierce?

2 A. Yes.

2 Q. And where was that held?

2 A. In his office.

2 Q. Who was present at that?

2 A. Secretary Pierce, Ms. Dean, and myself.

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1 Q. And was a discussion held at that time?

2 A. Yes.

3 Q. Without telling us what that discussion was, what, if  
4 anything, occurred thereafter?

5 A. The discussion was exclusively directed towards the Mod  
6 Rehab Program.

7 Q. Now you cannot get into the discussion, again, because it  
8 would be hearsay. What, if anything, happened as a result of  
9 this meeting?

10 A. As a result of the meeting, a new procedure was established  
11 whereby Ms. Dean, myself, and either the under secretary of HUD  
12 or the general counsel of HUD would form a mod rehab selection

13 committee to make future mod rehab selections.

14 Q. Did there come a point in time when that committee did start

15 acting on mod rehab allocation processes?

16 A. Yes.

17 Q. When did that occur?

18 A. The first meeting was early March of 1987.

19 Q. When was the next meeting?

20 A. Early April 1987.

2 Q. Did there come a point in time when to your knowledge the  
2 defendant, Deborah Gore Dean, left the Department of Housing and  
2 Urban Development?

2 A. Yes.

2 Q. And when was that?

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1 A. July Of 1987.

2 Q. How many such committee meetings occurred from January of  
3 1987, when you told us it started, to the time that she left the  
4 Department of Housing and Urban Development?

5 A. Two.

6 Q. Can you describe for the Ladies and Gentlemen of the Jury  
7 what, if anything, occurred at these two funding meetings? How  
8 did they come about? What transpired in the meetings?

9 A. Generally, Ms. Dean and I would meet and review PHA requests  
10 that had come to her attention, to my attention. We would  
11 discuss, we would discuss them. We would generally come to a  
12 consensus.

13 We would either then schedule a more formal meeting -  
14 this would be more of an informal session. The formal session  
15 would be scheduled following the informal session, or the formal  
16 session would have been scheduled and she and I would have met  
17 shortly before the scheduled meeting.

18 Q. Mr. Demery, at this time, I would show you a document  
19 previously marked as Government's Exhibit 161 for identification  
20 purposes. I believe there has been a stipulation.

2 So at this time, if it's not in evidence, Your Honor,

2 I'd move it into evidence.

2 MR. WEHNER: No objection, Your Honor.

2 THE COURT: All right, 161 will be admitted.

2 BY MR. O'NEILL:

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1 Q. Mr. Demery, I'd ask you to look at this and describe it for  
2 the jury, please, if you would?

3 A. This is a copy of a memorandum I would prepare following the  
4 formal funding meeting that would --it was addressed to my  
5 staff, my two deputy assistant secretaries that would be  
6 responsible for generating the paperwork; the committee members,

7 Ms. Dean and Mr. Dorsy, were copied; and basically it would  
8 memorialize the decisions made at that meeting.

9 Q. If I may, I would direct your attention to two notations.

10 First, there is one for Metro Dade, and can you see what the  
11 notations next to Metro Dade are?

12 A. Yes. Under the column that would be the number of units,  
13 there is, there are three separate line notations: "153 one  
14 bedrooms, 200 -- excuse me, 48 two bedrooms, and 2 zero  
15 bedrooms."

16 Q. What is the total of that, by the way?

17 A. 203.

18 Q. At that time, did you know where those 203 units were going?

19 A. They were going to Metro Dade.

20 Q. Have you ever heard of an individual by the name of Claude  
2 Dorsy?

2 A. No.

2 Q. How about Jim Mitchell?

2 A. Jim Mitchell?

2 Q. Not a HUD employee Jim Mitchell.

1900

1 A. Oh, no.

2 Q. I'd also ask you to look two notations down from that, and  
3 does it show an allocation for Prince George's County?

4 A. Yes.

5 Q. And how many units went to Prince George's County?

6 A. 88.

7 MR. O'NEILL: Your Honor, at this time, I'd ask to  
8 publish this to the jury.

9 THE COURT: All right.

10 BY MR. O'NEILL:

11 Q. Mr. Demery, at this time, I would show you a document  
12 previously marked as Government's Exhibit 164 for identification,  
13 and since there is a stipulation, I will move it into evidence at  
14 this time if it is not.

15 MR. WEHNER: No objection.

16 THE COURT: What's the number again?

17 MR. O'NEILL: 164, Your Honor.

18 THE COURT: 164 is admitted.

19 THE CLERK: That's already been admitted.

20 THE COURT: All right.

21 BY MR. O'NEILL:

22 Q. Mr. Demery, I'd ask you to explain to the Ladies and  
23 Gentlemen of the Jury what that document is.

24 A. This is referred to as a rapid reply letter. It is



25 requesting the issuance of a HUD Form 185, which is the funding  
1901

1 document for mod rehab.

2 Q. And how many units are being funded on that?

3 A. 1,710.

4 Q. Directing your attention to that document, was there a  
5 funding committee meeting for that?

6 A. Yes It --

7 Q. Was it the one you just referred to?

8 A. Yes

9 MR. O'NEILL: Your Honor, at this time, I would ask the  
10 Court's permission to publish this document.

11

12 BY MR. O

13 Q. Mr.

14 165 , and

15

THE COURT: All right, 164 will be published.

NEILL:

Demery, at this time, I'd show you Government's Exhibit  
again, there is a stipulation.

If it's not in evidence, I would move it into evidence

16 at this time, Your Honor.

17 THE CLERK: That's already in.

18 THE COURT: Which number is that, 165?

19 THE CLERK: Yes.

20 MR. O'NEILL: Thanks, Gloria.

21 Q-Mr. Demery, I'd ask you what is that document?

22 A. This is the Form 185.

23 Q. And the jury has heard information about a Form 185. Can  
24 you just briefly say what that is?

25 A. The 185 form is the form which was sent then to the regions  
1902

1 for processing and funding.

2 Q. Mr. Demery, at this time, I show you Government's Exhibit

3 183.

4 THE CLERK: 183 marked for identification, Government's  
5 Exhibit 183.

6 (Government' s Exhibit No. 183 was  
7 marked for identification.)

8 BY MR. O'NEILL:

9 Q. Mr. Demery, I'd ask you to look at this. Can you tell us  
10 what it is?

11 A. This is a rapid reply letter for the nine PHAs I referred to  
12 earlier.

13 Q. Was it signed by you, sir?

14 A. Yes.

15 MR. O'NEILL : Your Honor, at this time, I'd move it

16 into evidence as Government's Exhibit 183.

17 MR. WEHNER: No objection, Your Honor.

18 THE COURT: All right, the rapid reply letter will be

19 admitted.

20 (Government' s Exhibit No. 183 was

2 received in evidence.)

2 BY MR. O'NEILL:

2 Q. Mr. Demery, what is the date of that document?

2 A. October 30, 1986 •

2 Q. Now you've just mentioned about the several projects that

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1 you've testified to earlier. When did this funding occur? Do

2 you understand?

3 Let me rephrase that. When did you begin as assistant

4 secretary for housing/FHA commissioner?

5 A. I was sworn in on the 21st of October, 1986.

6 Q. Was this document prepared pursuant to a committee meeting?

7 A. No.

8 Q. How is this, how did this funding come about?

9 A. Ms. Dean requested that funding occur for nine PHAs.

10 Q. I would direct your attention to a notation under Region IV,

11 and how many units are going to the City of Atlanta?

12 A. 200 two-bedroom units.

13 Q. At that time, did you know who the developer on that project

14 was?

15 A. No.

16 Q. Have you ever heard the name Nicholas Bazan?

17 A. No.

18 Q. Are you familiar with an individual by the name of Lou

19 Kitchin?

20 A. Yes.

21 Q. How do you know Mr. Kitchin?

22 A. Ms. Dean introduced me to him.

23 Q. Did you know him as of October 30 of 1986?

24 A. Not that I recall.

25 MR. O'NEILL: Your Honor, at this time, I'd publish

Government's Exhibit 183.

2 THE COURT: All right.

3 BY MR. O'NEILL:

4 Q. Mr. Demery, I'll now show you a document previously marked

5 as Government's Exhibit 184.

6 THE CLERK: It's already in evidence.

7 BY MR. O'NEILL:

8 Q. Mr. Demery, since it's already in evidence, would you just

9 tell the jury what that is?

10 A. This is the 185. This is part of the -- this is one of the  
11 185 forms that was as a consequence of the rapid reply memo.

12 Q. That we just looked at?

13 A. Yes.

14 MR. O'NEILL: Your Honor, at this time, I'd ask to  
15 publish Government's Exhibit 184 to the jury.

16 THE COURT: All right.

17 BY MR. O'NEILL:

18 Q. At this time, Mr. Demery, I'm showing you what's previously  
19 been marked as Government's Exhibit 204A for identification, and  
20 I'd ask you if you recognize it, sir?

21 A. Yes. This is one of the Form 185s that was generated as a  
22 result of the rapid, one of the earlier rapid reply memos you  
23 showed me.

24 Q. And this was --is this pursuant to a committee meeting?

25 A. Yes.

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MR. O'NEILL: Your Honor, at this time -- does it bear  
2 your signature, sir?

3 THE WITNESS: Yes, it does.

4 MR. O'NEILL: Your Honor, at this time, I'd move into  
5 evidence Government's Exhibit 204A.

6 MR. WEHNER: No objection.

7 THE COURT: All right, 204A is admitted.

8 (Government's Exhibit No. 204A was  
9 received in evidence.)

10 BY MR. O'NEILL:

11 Q. Mr. Demery, at this time, I would show you Government's  
12 Exhibit 240.

13 THE CLERK: That's already in.

14 BY MR. O'NEILL:

15 Q. I'd ask you if you recognize that, sir?

16 A. Yes. This is -  
yes, I do.

17 Q. What do you recognize that to be?

18 A. This is a letter dated November 13, 1986, to a Ms. Amy  
19 Schiff, in San Jose, California, signed by Secretary Pierce,  
20 concerning a request for mod rehab assistance to Santa Clara  
21 County, and on the bottom is a handwritten note to me from  
22 Ms. Dean saying, "Tom, 20 two-bedroom units to Santa Clara.  
23 Zagame has details. Deborah."

24 MR. O'NEILL: Your Honor, at this time, I'd move it  
25 into evidence as Government's Exhibit 240.

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1 MR. WEHNER:

2 THE COURT:

3 240.

4 BY MR. O'NEILL:

No objection.

All right, it will be admitted, Government

5 Q. Mr. Demery, is that one of the notes you referred to earlier

6 when you first arrived as assistant secretary for housing?

7 A. Yes.

8 Q. Mr. Demery, I would show you Government's Exhibit 247 for

9 identification.

10 THE CLERK:

11 identification.

12

13

14 BY MR. O'NEILL:

Government's Exhibit 247 marked for  
(Government's Exhibit No. 247 was  
marked for identification.)

15 Q. Mr. Demery, I would show you Government's Exhibit 247 for

16 identification, and I'd ask if you recognize that, sir?

17 A. Yes, I do.

18 Q. What do you recognize that to be?

19 A. This is a written directive to fund 15 two-bedroom units for  
20 Massachusetts Housing Finance Agency for use in Plymouth County,  
2 Massachusetts, written by Ms. Dean and given to me in  
2 November/December '86.

2 Q. Does that bear two handwritings?

2 A. Yes. Following the line "for use in Plymouth County," my  
2 hand then writes in blue ink "mod rehab" and in black ink "Ross  
1907

1 has backup 85 units already funded." That's when Ms. Dean told  
2 me the backup information could be found.

3 MR. O'NEILL: Your Honor, at this time, I'd move into  
4 evidence Government's Exhibit 247.

5 MR. WEHNER: No objection, Your Honor.

6 THE COURT: All right, 247 is admitted.

7 (Government's Exhibit No. 247 was  
received in evidence.)

BY MR. O'NEILL:

10 Q. At this time, Mr. Demery, I'd show you what's previously  
11 been marked as Government's Exhibit 248.

12 THE CLERK: Government's Exhibit 248 marked for  
13 identification.

14 (Government's Exhibit No. 248 was

15 marked for identification.)

16 BY MR. O'NEILL:

17 Q. I'd ask you if you recognize that, sir?

18 A. Yes. This is a note that Ms. Dean sent me concerning the  
19 Tennessee Housing Development Agency for 216 units and the State  
20 of New Jersey for 326 units.

2 MR. O'NEILL: I move it into evidence, Your Honor, as  
2 Government's Exhibit 248.

2 MR. WEHNER: No objection.

2 THE COURT: All right. No objection, it will be  
2 admitted.

1908

(Government's Exhibit No. 248 was  
received in evidence.)

BY MR. O'NEILL:

4 Q. Mr. Demery, I would show you Government's Exhibit 249 for  
5 purposes of identification.

6 THE CLERK: Government's Exhibit 249 marked for  
identification.

(Government's Exhibit No. 249 was  
marked for identification.)

10 BY MR. O'NEILL:

11 Q. And I'd ask you, sir, if you recognize this?

12 A. Yes This is a listing of PHA funding requests prepared  
13 sometime in January -  
in December or January -  
December '86/ .

14 January of '87. Most of it is in my hand. There are three » lines  
15 that are in Ms. Dean's hand.

16 MR. O'NEILL : Your Honor, I'd move it into evidence as  
17 Government's Exhibit 249.

18 MR. WEHNER: No objection, Your Honor.

19 THE COURT: All right, 249 is admitted. You may  
20 publish it.

21 (Government's Exhibit No. 249 was  
22 received in evidence.)

23 BY MR. O'NEILL:

24 Q. Mr. Demery, I would show you Government's Exhibit 250 for  
25 identification.

THE CLERK: Government's Exhibit 250 marked for  
identification.

3 (Government's Exhibit No. 250 was  
4 marked for identification.)

5 BY MR. O'NEILL:

6 Q. I'd ask you, sir, if you recognize this?

7 A. Yes. This is a note dated 2-17-86 -

excuse me, 12-17-86 to

8 me from Ms. Dean requesting copies of the rapid replies, rapid  
9 reply memos on mod rehab projects that have gone out in fiscal  
10 year 1987.

11 MR. O'NEILL: Your Honor, I'd move this into evidence  
12 as Government's Exhibit 250.

13 MR. WEHNER: No objection, Your Honor.

14 THE COURT: All right. No objection, they're admitted,  
15 250.

16 (Government's Exhibit No. 250 was  
17 received in evidence.)

18 MR. O'NEILL: Your Honor, I have no further questions  
19 at this time.

20 THE COURT: All right. Let's start some cross now and  
21 see how long we go.

22 MR. WEHNER: Yes, Your Honor. What time would Your  
23 Honor like me to finish?

#

24 THE COURT: We'll start now and probably around 3:10,  
25 3:15 take a break.

1910

1 MR. WEHNER: Yes, Your Honor.

2 CROSS EXAMINATION

3 BY MR. WEHNER:

4 Q. Mr. Demery, my name is Steve Wehner. I represent Ms. Dean.

5 Mr. Demery, you during your tenure at HUD were a  
6 relatively ambitious individual at HUD, were you not?

7 A. Yes.

8 Q. And you aspired to take Samuel Pierce's position; isn't that  
9 correct?

10 A. No.

11 Q. You had no intention during any of your career at HUD to  
12 become secretary at HUD?

13 A. Yes, I did, but I misunderstood your question if that's what  
14 you meant. I didn't intend to replace him.

15 Q. You didn't intend to replace him.

16 A. Right.

17 Q. You intended to take his job after he left?

18 A. I, I attempted to be named secretary in the next  
19 administration.

20 Q. And you attempted to become secretary of HUD by enlisting  
2 the support of many people; isn't that correct?

2 A. Yes.

2 Q. And you had enlisted the support, did you not, of Craig  
2 Fuller, Bob Teeter, Lou Kitchin, Boyden Grey, Fred Fielding, Rick  
2 Shelby?

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1 A. Some of those people, not all of them. Those were all  
2 people that were, whose support was needed, but I didn't speak to  
3 all of them.

4 Q. And you wanted these individuals to support you?

5 A. Yes.

6 Q. Did you speak to Mr. Kitchin about that support?

7 A. Yes.

8 Q. And he agreed to support you, did he not?

9 A. Yes.

10 Q. And is it not true that that was as a direct result of the  
11 mod rehab units that you funded for him when you were in the  
12 position, the presidentially appointed position of federal  
13 housing commissioner?

14 A. You'd have to ask Mr. Kitchin. I don't know.

15 Q. Don't you think that had a lot to do with his support for  
16 you for the position? Wouldn't that make sense?

17 A. It wasn't discussed. :

18 Q. You did fund mod rehab projects for Mr. Kitchin; isn't that  
19 correct?

20 A. I funded mod rehab requests, yes.

21 Q. For Mr. Kitchin, isn't that correct he was involved in mod  
22 rehab projects that you funded? Isn't that right?

23 A. Yes.

24 Q. Now you have also -- you were not only an ambitious person,  
25 but you also during your tenure at HUD tried to get Ms. Dean and  
1912

1 Secretary Pierce into serious trouble, didn't you?

2 A. I don't know what you're referring to.

3 Q. Do you recall if there was an occasion when there was an  
4 inspector general's investigation?

5 A. There were several, yes.

6 Q. Do you recall one that dealt with the mod rehab problems at  
7 HUD?

8 A. Yes, I do.

9 Q. One that was called, the name was something like Tom Demery  
10 Mod Rehab or something like that, had your name on the title?

11 A. Yes.

12 Q. Do you recall having meetings with the inspector general  
13 during that investigation in which you told them they were going  
14 down the wrong track?

15 A. Yes.

16 Q. And that they should be looking at Pierce and Dean?

17 A. I don't recall mentioning Secretary Pierce's name.

18 Q. You don't recall mentioning Secretary Pierce's name.

19 Isn't it a fact that you lied to Secretary Pierce about

20 where mod rehab units were going in your meetings with him?

21 A. I'm, I don't know what you're talking about.

22 Q. Isn't it true, sir, that you were, that you knew that Joseph  
23 Strauss, a former HUD employee, was consulting on some mod rehab  
24 programs, and you intentionally concealed that from Deborah Dean  
25 and Sam Pierce?

1913

1 A. In January of 1987, Mr. -- prior to January of 1987,

2 Mr. Strauss had contacted me on behalf of some PHAs in Puerto  
3 Rico. When I was asked who was behind the requests for Puerto  
4 Rico, I gave the names of Mr. Holtzman, Mr. Waldman, and I don't,  
5 I think perhaps --

6 Q. Mr. Carmen?

7 A. Mr. Carmen, yes. I did not mention Mr. Strauss.

8 Q. And the reason you didn't mention Mr. Strauss, isn't it  
9 true, is that because you knew that the secretary did not want  
10 units going to a project that was associated with Joe Strauss;  
11 isn't that right?

12 A. I don't -- no, that isn't right.

13 Q. When --

14 A. I know that Ms. Dean and Mr. Strauss had difficulties with  
15 each other.

16 Q. Oh.

17 MR. O'NEILL: Objection, Your Honor.

18 THE COURT: All right, I'll sustain the objection to  
19 the, I don't know if you'd call it a comment, but to the noise by  
20 counsel.

21 MR. WEHNER: It was kind of a comment and a combination  
22 noise of disbelief, Judge.

23 MR. O'NEILL: Objection once again, Judge.

24 THE COURT: I'll sustain that and strike the comments  
25 of counsel. It has no bearing on the case.

BY MR. WEHNER:

2 Q. So you did not tell the secretary or Ms. Dean -- now wait a  
3 minute now. Why didn't you tell the secretary that Joe Strauss  
4 was behind it if Ms. Dean was against it?

5 A. The secretary knew that Joe Strauss was involved with those  
6 projects.

7 Q. Did you tell him?

8 A. No, I did not.

9 Q. You lied to him when he first  
10 you, sir? Isn't it true that he  
11 projects, and you gave three name  
12 name?

13 A. I gave an incomplete answer,

14 Q. And you didn't give Joe Stra



15 A. I gave an incomplete answer.

16 Q. To the secretary of HUD, correct?

17 A. Correct.

18 Q. And he later found out who those units were going to, isn't  
19 it correct, sir, when Ms. Dean came to him and said they were  
20 going for Joe Strauss, and he came back and checked; isn't that  
21 correct?

22 A. No, that's not correct. He knew at that meeting. He  
23 already knew.

24 Q. He knew when you were lying to him you were lying to him?

25 A. He knew I was giving an incomplete answer.

1915

1 Q. He knew you were giving an incomplete answer when you were  
2 talking to him?

3 A. Correct.

4 Q. Is that your testimony, that he knew you were giving him an  
5 incomplete answer?

6 A. Yes, that's my testimony, because immediately upon finishing  
7 my answer, he said, "That's not all. Those aren't the only  
8 people."

9 Q. You were concealing that Joe Strauss was involved in that  
10 project to try to get it funded, weren't you?

11 A. I was -- I gave an incomplete answer because of the enmity  
12 that existed between Joe Strauss and Deborah Dean and my  
13 uncertainty as to what exactly was going on. That was the whole  
14 point of the meeting, Mr. Wehner.

15 Q. And you gave that incomplete answer to Secretary Pierce?

16 A. That's correct.

17 Q. Okay. Now you have testified -- you testified publicly on  
18 television, as a matter of fact, regarding certain of the  
19 inspector general allegations at HUD; isn't that right?

20 A. Yes.

2 Q. And those were on C-Span, were they not?

2 A. Yes, they were.

2 Q. And were you put under oath --

2 A. Yes, I was.

2 Q. -- during those hearings?

1 A. Yes, I was.

2 Q. And did you swear to tell the truth?

3 A. Yes, I did.

4 Q. And did you tell the truth?

5 A. Yes, I did.

6 Q. You told the utter and complete truth in front of those --  
7 on those hearings?

8 A. Yes, I did.

9 Q. Okay. You haven't been -- you didn't plead guilty to  
10 perjury, did you?

11 A. No, I did not.

12 Q. Okay. Is that because you've never committed perjury?

13 A. Of course.

14 Q. Okay. And you told the truth in front of the Lantos  
15 committee in the same fashion as you're telling the truth today,  
16 correct?

17 A. Correct.

18 Q. I mean, you've been put under oath today, correct?

19 A. Yes.

20 Q. And you had the same obligation you have today as when you  
2 were in front of the Lantos committee? You recognize that?

2 A. Yes, I do. I know a lot more than I did before the Lantos  
2 committee. I've had an opportunity to look at documents and  
2 spend a lot more time on issues than I did when I testified in  
2 front of Chairman Lantos.

1917

1 Q. Okay. So you may have made some mistakes in front of the  
2 Lantos committee, but they certainly wouldn't have been  
3 intentional; is that what you're saying?

4 A. Yes.

5 MR. WEHNER: Okay. No intentional perjury, no lies,  
6 just mistakes, okay.

7 Well, I would, with permission of the Court, I'd like  
8 to play a portion of the testimony to the witness.

9 THE COURT: Why don't you come up to the bench, and  
10 we'll see what it covers.

11 (Bench conference on the record.)

12 THE COURT: What area do you want to use for  
13 impeachment purposes?

14 MR. WEHNER: Your Honor, I intend to play one, two -  
15 five pages of the testimony, which is his introductory statement  
16 after the inspector general's report was issued, in which he  
17 basically, there are a number of -- there are a lot of  
18 inconsistent statements in there, but the main reason I want to  
19 play it is because he is attempting in there to shift the blame  
20 for any problems to Secretary Pierce and Ms. Dean, and No. 2,  
2 that there are statements in there that are inconsistent with  
2 other statements he has given and statements in which he, in my  
2 judgment, he perjures himself in front of the Lantos committee,  
2 and he's just testified that he was truthful in front of the  
2 Lantos committee.

1918

1 THE COURT: Are you aware of this?

2 MR. O'NEILL: I'm aware of his testimony, Your Honor.

3 THE COURT: What this goes to?

4 MR. O'NEILL: If you want to hear from the government,  
5 the government can divine no legal basis for doing such. It's  
6 not proper cross examination. You must ask him, direct him to  
7 something and say, "Is that what you said?"

8 MR. WEHNER: I'll do that, Judge, but I think I'm  
9 entitled to do that in the most effective way possible, which is  
10 using a videotape of him.

11 THE COURT: Well, I think you do have to ask specific  
12 questions and get specific responses from him. I don't know how  
13 you can arrange the video to play specific responses you think in  
14 here go to a precise question you've asked him, he denies it, and  
15 he testified X or he said X. To put his whole report on in  
16 video -

17 MR. WEHNER: Not the whole report, just four pages.

18 THE COURT: Four pages on video, unless it goes to  
19 specific issues, I mean, you did ask him, I think, already didn't  
20 he try to put the blame over on somebody else, and here he does  
2 say, "I say that because the inspector general has a statement  
2 from the secretary's executive assistant, who stated that for 42  
2 of the 59 months covered by the report period, that she  
2 functioned as the focal point of the Moderate Rehabilitation  
2 Program. Yet there is barely a mention made of that focal point

1919

1 in the 700-page report which bears my name."

2 And he denies he ever talked to HUD officials about  
3 moderate rehab programs.

4 MR. WEHNER: Well, that's a good example, Judge. I  
5 mean, he denies talking to HUD officials, and that's just not the  
6 case. He talked to Joe Strauss, for example, which is already  
7 established, and he says that he didn't talk to any former HUD  
8 officials, and that's one of 30 maybe, not that I intend to go  
9 through them all, but that's a good example, and that he lied to  
10 Sam Pierce or gave an incomplete answer to Sam Pierce about Joe  
11 Strauss.

12 THE COURT: Well, I only see a couple of those things  
13 so far that get into specific issues that would reflect his  
14 testimony today.

15 MR. WEHNER: Your Honor -

16 THE COURT: If you can pick out a couple lines on the  
17 television where he says that, as opposed to just reading what he  
18 said, that's all right, but I don't want to play the four pages,  
19 because it gets into a lot of extraneous things.

20 MR. WEHNER: I can pick out a couple and play those.

2 THE COURT: Why don't you do that. That's fine.

2 MR. WEHNER: Yes.

2 THE COURT: Will this work on here? What do you have  
2 to do? Do you have to set a machine up or something?

2 MR. WEHNER: No, sir, it's all set, but I would go to  
1920

1 the direct place. So if we could break?

2 THE COURT: I'll take a break and let you get to the  
3 couple places you want.

4 MR. WEHNER: Thank you, Judge.

5 THE COURT: All right.

6 (End of bench conference.)

7 THE COURT: All right, we're going to take a short  
8 afternoon break, Ladies and Gentlemen, so we can set up a machine  
9 here to work and give you your afternoon break as well at the  
10 same time. So remember the admonition of the Court.

1 We'll take about a 10-minute recess. Remember the  
1 admonition to not talk about the case with anyone or among  
1 yourselves. Come back after you get your snack.

(Jury out.)

15 THE COURT: All right, ten minutes.

1921

1 (Recess, 3:00 p.m. to 3:25 p.m.)

2 THE COURT: All right.

3 Have you got those two segments picked out?

4 MR. WEHNER: Yes, sir, and I understand that I  
5 can cut it off quickly with the remote. I've been  
6 instructed.

7 (Jury present)

8 THE COURT: All right, we're ready to resume  
9 the cross-examination.

10 BY MR. WEHNER:

11 Q Mr. Demery, I would like to show you what I've  
12 marked as Dean Exhibit 190.

13 THE DEPUTY CLERK: Dean's Exhibit 190 marked  
14 for identification.

15 (Defendant's Exhibit 190 marked for  
16 Identification)

17 BY MR. WEHNER:

18 Q Which purports to be a memo that was written from  
19 you to Secretary Pierce. I ask you if you recognize it?

20 A Yes, I do.

2 Q And that memo is written in response to the  
2 Inspector General's report on Mod Rehab, was it not?

2 A No, it was written in response to a memo that the  
2 Inspector General wrote, dated October 24, 1988.

2 Q Do you recall telling Secretary Pierce that, "Each  
1922

1 funding action with regard to the moderate

2 rehabilitation program occurred as a result of specific

3 written or verbal communications with PHA's, elected and

4 public officials, and regional or area HUD personnel?"

5 A Are you reading from my letter?

6 Q Yes, I am.

7 A May I?

8 MR. O'NEILL: Objection, Your Honor.

9 THE COURT: All right, I think — the

10 objection is the use of the memo. It's not in evidence

11 but I'll overrule the objection and let him ask him

12 whether he recalls saying that.

13 BY MR. WEHNER:

14 Q Do you recall saying that to the Secretary?

15 A Yes, I wrote that.

16 Q Now, the Government showed you Government Exhibit

17 198 which had been introduced into evidence which is a

18 memorandum or a letter to Secretary Samuel Pierce from

19 Alvin D. Moore dealing with Section Eight Mod Rehab

20 units in Metro-Dade County, Florida. Do you recall that

2 memo?

2 I should call it a letter. Do you recall that

2 letter?

2 A Not offhand, no.

2 Q Do you recall ever having seen that before?

1923

1 A It's possible. Metro-Dade sent a lot in. I don't

2 recall that particular one.

3 Q Would you -- do you recognize your handwriting in

4 the upper righthand corner of that exhibit? The word

5 funded?

6 A Oh, I -- it could be my handwriting.

7 Q Well, it does appear to be your writing, does it

8 not?

9 A It's close to it, yeah.

10 Q Now, I'm going to show you what I've marked for

11 identification as Dean Exhibit 189?

12 THE DEPUTY CLERK: Dean Exhibit 189 marked for

13 identification.

14 (Defendant's Exhibit 189 marked

15 for Identification)

16 BY MR. WEHNER:

17 Q Which is another copy of that memo. I'm sorry,  
18 that letter. And it has few more items written on it  
19 than Government Exhibit 198, including some numbers down  
20 in the lower righthand corner. Now, those numbers are  
2 in your handwriting, are they not?

2 A No, they're not.

2 Q Those are not your handwriting?

2 A No, it's not.

2 Q Who was your Executive Assistant?

1924

1 A At what time?

2 Q February 13th, 1987.

3 A I believe it was Nancy Murray.

4 Q Now, you testified concerning Lou Kitchin and your  
5 knowledge of Lou Kitchin in the direct examination by  
6 Independent Counsel. You had a practice, did you not,  
7 of keeping a personal walletsized phone directory of  
8 people that were important to you?

9 A I had a practice of keeping a small card that had  
10 frequently dialed numbers on it, yes.

11 Q And Mr. Kitchin's name and number were on there,  
12 were they not?

13 A I — I don't recall.

14 Q I show you what I've marked for identification as  
15 Dean Exhibit 191?

16 THE DEPUTY CLERK: Dean Exhibit 191 marked for  
17 identification.

18 (Defendant's Exhibit 191 marked

19 for Identification)

20 BY MR. WEHNER:

21 Q And ask you if that refreshes your recollection as  
22 to whether you kept Lou Kitchin\*s telephone number in  
23 that index card, as you recall it?

24 A I assume that's his number? That number doesn't -25

Q You can't assume anything.

1925

1 A It says Lou with a 404 phone number and if you're  
2 telling me that's Lou Kitchin's phone number then —

3 Q What I'm asking you, does this refresh your  
4 recollection that you kept that information on your  
5 list?

6 A I generally made a practice of including complete  
7 initials. That one is just notated Lou. If that's Lou  
8 Kitchin's phone number, then, yeah, it was on my list.

9 Q What was the purpose of keeping that list?

10 A Frequently -- mainly convenience. Numbers that

11 were frequently used. I could keep it in my wallet  
12 without having to carry around my phone directory.

13 Q So you were frequently in contact with Mr. Kitchin,  
14 is that correct?

15 A I was in contact with Mr. Kitchin in '88, yeah.

16 Q And I believe you testified that you first met him  
17 when?

18 A My first recollection in meeting him was outside of  
19 the Secretary's suite. I was entering it as he and  
20 Miss Dean were leaving it, and to my recollection that's  
2 when — she introduced me to him at that time.

2 Q When do you recall that being?

2 A In the spring of '87.

2 Q And your recollection is it could not have been  
2 before the spring of '87?

1926

1 A That's the first time I remember meeting him. When  
2 I arrived in Washington, you know, a parade of people  
3 went through my office to introduce themselves. I —  
4 it's possible he was part of the parade.

5 Q And you could have met him as early as, say,  
6 January of '77?

7 A '87?

8 Q I'm sorry, '87.

9 A It's possible.

10 Q You could have met him as early as October or  
11 November of '86?

12 A I don't remember meeting him until the spring of  
13 '87.

14 Q But it's possible you met him earlier.

15 A I have no recollection of meeting him earlier.

16 Q You testified on direct examination, sir, that  
17 when — almost immediately after you got to HUD you  
18 received a list of Mod Rehab projects to be funded. Do  
19 you remember that?

20 A Yes.

2 Q And you said that was approximately three days  
2 after you arrived at HUD you got this list, and you  
2 asked what it was and you said that Miss Dean told you  
2 that these were to be funded. Is that essentially your  
2 testimony?

1 A Essentially, yes.

2 Q Now, you haven't always said that about that list,  
3 have you? In fact, you've given different testimony  
4 about that list in the past?

5 A I'm unfamiliar with what you're referring.

6 Q Well, you previously testified that you hadn't  
7 committed any perjury in May or when you testified in  
8 front of the Committee on Banking, Finance and Urban  
9 Affairs of the House of Representatives and there you  
10 were asked by the chairman of that Committee, Chairman  
11 Gonzalez, page 59, the third, fourth, eighth line from  
12 the bottom, "Chairman Gonzalez: Do you recall any  
13 particular emphasis on the —

14 Mr. Demery: No, I recall three days after  
15 getting to HUD being given a list of non-fund, non-PHA  
16 requests which I was told the Secretary" -that's  
17 Secretary Pierce, is it not?

18 A Yes.

19 Q "Wanted funding." That's not Miss Dean wanted the  
20 funding, that's the Secretary wanted them funded, is  
2 that correct? Is that your testimony in front of the  
2 Committee?

2 A Yes.

2 Q "I asked what is this list, and she  
2 said — "

1928

1 "Chairman Gonzalez: With respect to the  
2 moderate rehab."

3 "Mr. Demery: Yes."

4 "Chairman Gonzalez: You were informed this  
5 was what the Secretary wanted?"

6 •Mr. Demery: Right

7 A Yes.

8 Q "Chairman Gonzalez: Was this by virtue of, say, an  
9 interoffice memo, or what was the source of your  
10 information that this was the Secretary's desire?"

11 "Mr. Demery: Well, I got a letter, a note  
12 from his Executive Assistant that said please let me  
13 know whether action is taken on these requests as it's  
14 very important, and I asked her -I  
called her about it

15 and said —"

16 "Chairman Gonzalez: That was Miss Dean."

17 "Mr. Demery: Yes. I asked her what did this  
18 mean and she explained that the Secretary, it was a  
19 brand new fiscal year, and the Secretary had some  
20 funding decisions he wanted me to implement, so I did."

2 Do you recall giving that testimony under oath  
2 to Chairman Gonzalez?

2 A Yes, I do.

2 Q Now, this is one of several times that you had



2 occasion to testify in Congress, isn't that correct?

1929

1 A Yes.

2 Q And did you testify on one occasion —

3 MR. O'NEILL: Objection, Your Honor.

4 THE COURT: I'm not sure what -I  
haven't

5 heard the question yet. Go ahead.

6 BY MR. WEHNER:

7 Q Did you testify on one occasion that, "None of the  
8 former HUD officials ever talked to me about moderate  
9 rehab?"

10 A I have to see the transcript. I don't -11

MR. WEHNER: It's marked May 8th, 1989.

12 MR. O'NEILL: Judge, I still object to the

13 manner in which it's being presented.

14 THE COURT: I'd like to speed this along a

15 little bit. Why don't you come up?

16 (Bench conference)

17 THE COURT: You're sort of asking the question

18 from the transcript. I think you could ask him is it

19 true that all the funding decisions, whatever it says

20 there —

2 MR. WEHNER: I can do it that way, Judge.

2 THE COURT: And see whether he says yes or no.

2 MR. WEHNER: I can do it that way. No

2 problem.

2 MR. O'NEILL: That will be fine.

1930

1 THE COURT: It will be quicker that way.

2 MR. WEHNER: No problem.

3 (Bench conference concluded)

4 BY MR. WEHNER:

5 Q Did former HUD officials come and see you and talk

6 to you about Mod Rehab units?

7 A Yes.

8 MR. WEHNER: With the Court's permission, I'll

9 play the tape.

10 MR. O'NEILL: I would like to know at what

11 point, Judge, what -12

THE COURT: Do you want to just lay a little

13 bit of foundation as to when and where this occurred

14 before you play it?

15 BY MR. WEHNER:

16 Q You testified on May 8th, 1999 as a former HUD

17 Assistant Secretary for Housing, accompanied by Jerris

18 Leonard, counsel. Do you recall that?

19 A It wasn't 1999.

20 MR. WEHNER: 1989.

2 THE COURT: All right. I'll allow it to be  
2 played.

2 (Portion of videotape played)

2 A It was difficult for me to understand what I was  
2 saying up there. Can I read what was played? The  
1931

1 fidelity, especially at the beginning, was not very  
2 clear.

3 Q Sure. The portion that was played is page 53  
4 beginning with the words "I have" and ending with the  
5 word "rehab."

6 A Okay. That's a correct statement.

7 Q I understand. Now, did you testify on another  
8 occasion -- well, I'll ask you the question in a  
9 different way. Did you meet with developers regarding  
10 the allocation of Mod Rehab units when you were at HUD?

11 A I met with developers concerning all programs of  
12 HUD. I assume Mod Rehab was part of it, yes, as a  
13 general practice.

14 MR. WEHNER: With the Court's permission.

15 (Portion of videotape played)

16 THE COURT: All right, I'll allow him to ask  
17 the question. That doesn't go directly to developers.

18 MR. WEHNER: I'll withdraw that, Your Honor.

19 THE COURT: All right.

20 BY MR. WEHNER:

21 Q Mr. Demery, of the several times that you testified  
22 up on Capitol Hill you were asked many questions as to  
23 whether or not you had met with consultants or  
24 developers, isn't that correct?

25 A I was asked those questions, yes.  
1932

1 Q And you responded to those questions, correct?

2 A Yes.

3 Q Okay. To the best of your knowledge did you tell  
4 the truth when you responded to those questions?

5 A Yes.

6 Q Did you testify when you were up there that you  
7 were contacted by Mr. Louis Kitchin concerning Mod Rehab  
8 developments?

9 A I don't recall the testimony.

10 Q Okay.

11 A I mean there were pages and pages of testimony.

12 Q Absolutely. I'm going to show what you I've marked  
13 for identification as Dean exhibit 192?

14 THE DEPUTY CLERK: Dean Exhibit 192 marked for  
15 identification.

16 (Defendant's Exhibit 192 marked  
17 for Identification)

18 BY MR. WEHNER:

19 Q And ask if that refreshes your recollection as to  
20 when you would have first met Mr. Lou Kitchin?

2 A There's no date on it.

2 That's not where the date belongs

2 Q It does not refresh your recollection as to when  
2 you first met Mr. Kitchin?

2 A It's undated.

1933

1 Q Isn't it true, sir, that you first met him when he  
2 came by your office and called your office for an  
3 appointment in January of 1987?

4 A I have an appointment calendar. If he's on my  
5 appointment calendar, then that's when I met him. I do  
6 not recall meeting him at that time.

7 Q Isn't it true that he came by to see you and that  
8 you met him before then?

9 A I have no idea.

10 Q Okay.

11 A If I had an appointment with him, then I met him.

12 If he stopped by and I wasn't there then — I don't  
13 know.

14 Q I'll show you what I've marked for identification  
15 as Dean exhibit 193?

16 THE DEPUTY CLERK: Dean exhibit 193 marked for  
17 identification.

18 (Defendant's Exhibit 193 marked  
19 for Identification)

20 BY MR. WEHNER:

2 Q And ask you if that appears to be your book  
2 calendar?

2 A Yes, it does.

2 Q And looking at Thursday, January 29th, I ask you if  
2 that refreshes your recollection as to whether you had  
1934

1 met Lou Kitchin at least much earlier than the spring of  
2 1987?

3 A Yes, he had a courtesy call appointment at 11

4 o'clock on that date.

5 Q So you clearly had met him prior to the spring,

6 isn't that correct? And January is not the spring.

7 A I must have, yes. I don't recall that meeting.

8 And I think my testimony was the first time I recall  
9 meeting him was outside of the Secretary's office suite.

10 Q In April.

11 A In the spring. I don't know if it was March or

12 April.

13 Q Well, you would agree, would you not, that your  
14 memory is now refreshed that you met him prior to the  
15 spring of 1987, would you not?

16 A I will — yes, I will agree he had an appointment  
17 with me at the end of January. I don't recall meeting  
18 him then.

19 Q Okay.

20 A I don't recall.

21 Q Okay. And yet you recall meeting him in April, or  
22 the spring?

23 A I can tell you where I remember first meeting him.

24 That was outside the Secretary's suite. As to the date

25 I don't -- I'm not — I cannot recall with precision  
1935

1 what month it was.

2 Q Okay. So you're sure where you met him.

3 A And I recall —

4 Q But you're not sure when?

5 A That's correct, and I recall Ms. Dean introducing  
6 me to Mr. Kitchin.

7 Q Outside the Secretary's suite, correct?

8 A I was going in. She was coming out — they were  
9 coming out. Right by the corridor, yes.

10 Q Okay. Now, you were asked by the Committee on  
11 several occasions about the selection of units in the  
12 Mod Rehab project, and do you recall being asked, "Do  
13 you think the ones that were selected, the PHA's that  
14 were selected in your judgment were always the best,  
15 given the number of units available, which were very  
16 competitive?"

17 A What was your question?

18 Q Do you recall being asked that question.

19 A Generally, yes.

20 Q And do you recall giving the answer, "yes?"

2 A Yes.

2 Q Do you recall the question, "They were always the  
2 best ones. Then I don't know why you want to bring in  
2 Debbie and the Secretary in terms of saying that if they  
2 were always the best and the buck does stop with you

1936

1 since you were head of the selection Committee," do you  
2 recall being asked that?

3 A No, I don't.

4 MR. O'NEILL: Once again, Your Honor, I'm  
5 going to object to the manner in which the questions are  
6 being asked.

7 THE COURT: All right, I'll allow it at this  
8 time, just for clarity.

9 BY MR. WEHNER:

10 Q Do you recall being asked that question?

11 A Yes.

12 MR. WEHNER: I have nothing further, Your  
13 Honor.

14 THE COURT: Redirect?

15 MR. O'NEILL: Yes, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. O'NEILL:

18 Q Mr. Demery, you were asked questions on  
19 cross-examination by Mr. Wehner concerning getting that  
20 list approximately three days after you began as the  
2 Assistant Secretary for Housing-FHA Commissioner. Do  
2 you recall those questions?

2 A Yes.

2 Q From whom did you get that list?

2 A Miss Dean.

1937

1 Q Did you have any conversations with the Secretary  
2 about that list?

3 A No.

4 Q Now, you were asked questions on cross-examination  
5 about the committee. And I believe from your earlier  
6 testimony, correct me if I'm wrong, you said the  
7 committee met twice from January, 1987 until the time  
8 the defendant Deborah Gore Dean left the Department of  
9 Housing and Urban Development?

10 A Yes.

11 Q How did that committee operate in terms of  
12 selecting which projects to be funded?

13 A Basically it was a consensus between Miss Dean and  
14 I and prior to the meeting of the committee and when the  
15 committee convened I presented to third committee member  
16 the consensus that Miss Dean and I had reached.

17 Q How did you and Miss Dean reach a consensus? What  
18 procedure did you go through to gain that consensus?

19 A The deliberative process consisted of verifying

20 requests on file from the PHA, as well as any additional  
2 considerations that we were aware of at the time such as  
2 Congressional interest or local interest, as well as any  
2 contacts on behalf of the PHA requests. Any support  
2 from whatever source.

2 Q Mr. Demery, I'll show you a document that's  
1938

1 formerly been marked as Government's exhibit 208 for  
2 identification. It's not in evidence, so I'd ask you  
3 not to read it out loud.

4 A I'm sorry, what?

5 Q I would just ask you to review that, please, if you  
6 would. Do not read it out loud and don't make any  
7 reference to it. It's not in evidence.

8 THE DEPUTY CLERK: What exhibit was that, Mr.  
9 O'Neill?

10 MR. O'NEILL: 208.

11 THE DEPUTY CLERK: 208?

12 Government's Exhibit 208 marked for  
13 identification.

14 (Government's Exhibit 208 marked  
15 for Identification)

16 BY MR. O'NEILL:

17 Q Now, I would also show you Government's Exhibit 209  
18 for identification?

19 THE DEPUTY CLERK: Government's Exhibit 209  
20 marked for identification.

2 (Government's Exhibit 209 marked  
2 for Identification)

2 BY MR. O'NEILL:

2 Q And I'd ask you again, do not refer to it out loud  
2 because it is not in evidence.

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1 Mr. Demery, do you recall the specific  
2 allocation of 203 units to a project in Dade County,  
3 Florida in the spring of 1987?

4 A I recall 203 units being allocated to Dade County,  
5 yes.

6 Q Did you know who the developers were in that  
7 project?

8 A No.

9 Q Did you know who the consultant was on that  
10 project?

11 A No.

12 Q Did you push for that project?

13 A Excuse me, at the time Ms. Dean and I were

14 reviewing the funding applications from the PHA. As I  
15 said, as a part of the process each would let the other  
16 know any contacts that were made. It's very possible at  
17 that time I was told, I just don't remember.

18 Q Did you have anything to do with the funding of  
19 that project?

20 A In an official capacity, yes.

2 Q How about in an unofficial capacity?

2 A Well, I presented it to the committee, but I was  
2 not the initial contact on behalf of the PHA.

2 Q Who was, if you know?

2 A It was brought to my attention by Miss Dean.  
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1 MR. O'NEILL: I have no further questions.

2 Thank you.

3 MR. WEHNER: One question, Judge?

4 THE COURT: All right.

5 RE CROSS EXAMINATION

6 BY MR. WEHNER:

7 Q You were informed, were you not, sir, that  
8 Secretary Pierce spoke through Miss Dean for purposes of  
9 the Mod Rehab program?

10 MR. O'NEILL: Objection, Your Honor. It's  
11 hearsay earlier, it's hearsay now.

12 THE COURT: All right. I'll sustain it.

13 BY MR. WEHNER:

14 Q Your understanding was that Miss Dean spoke for  
15 Secretary Pierce on the Mod Rehab program, isn't that  
16 correct?

17 MR. O'NEILL: Objection, Your Honor.

18 MR. WEHNER: Judge, that's not hearsay.

19 THE COURT: Thank you for telling me.

20 MR. WEHNER: Sorry, Judge. It's been a long  
2 three weeks.

2 THE COURT: I'll overrule the objection. You  
2 can answer

2 BY MR. WEHNER:

2 Q You had an understanding, did you not, that  
1941

1 Miss Dean spoke for the Secretary on Mod Rehab, isn't  
2 that correct?

3 THE WITNESS: Is it okay to answer it now?

4 THE COURT: Yes.

5 Yes

6 MR. WEHNER: Nothing further.

7 THE COURT: Do you have any further redirect?

8 MR. O'NEILL: No, Your Honor, thank you.

9 THE COURT: Thank you, sir. You may step