No. 11-10669

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BARRY LAMAR BONDS,

Defendant-Appellant.

UNITED STATES'S OPPOSITION TO DEFENDANT'S PETITION FOR REHEARING EN BANC

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA NO. 07-CR-00732 SI

MELINDA HAAG
United States Attorney

BARBARA J. VALLIERE
Chief, Appellate Division
Assistant United States Attorney

MERRY JEAN CHAN
Assistant United States Attorney
450 Golden Gate Avenue, 11th Floor
San Francisco, California 94102
Telephone: (415) 436-7200

Attorneys for Plaintiff-Appellee
UNITED STATES OF AMERICA

Dated: January 8, 2014

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF THE FACTS 3

I. Trial evidence 3

A. Throughout his immunized grand jury testimony, Bonds consistently testified that he had no information about Anderson's distribution of PEDs 3

B. Bonds knew that Anderson was distributing PEDs 5

C. Bonds withheld evidence from the grand jury with corrupt intent 6

II. The panel's opinion 6

ARGUMENT 8

I. Precedent and legislative history establish that Section 1503 covers obstructive grand jury testimony 8

II. The panel's holding that testimony need not be literally false to be obstructive does not newly criminalize conduct 12

III. Bonds was convicted based on testimony charged in the indictment 16

CONCLUSION 19

CERTIFICATE OF COMPLIANCE 20

CERTIFICATE OF SERVICE 21

TABLE OF AUTHORITIES

FEDERAL CASES

Bifulco v. United States, 447 U.S. 381 (1980) 11

Catrino v. United States, 176 F.2d 884 (9th Cir. 1949) 13

Haili v. United States, 260 F.2d 744 (9th Cir. 1958) 10

Nye v. United States, 313 U.S. 33 (1941) 10

Schad v. Arizona, 501 U.S. 624 (1991) 18

United States v. Aguilar, 515 U.S. 593 (1995) 8, 9

United States v. Alvarez, 638 F.3d 666 (9th Cir. 2011) 15

United States v. Bonds, 730 F.3d 890 (9th Cir. 2013) 2, 6, 7, 14, 18

United States v. Bronston, 409 U.S. 352 (1973) 13, 14

United States v. Browning, 630 F.2d 694 (10th Cir. 1980) 14

United States v. Chen Chiang Liu, 631 F.3d 993 (9th Cir. 2011) 18

United States v. Doss, 630 F.3d 1181 (9th Cir. 2011) 9

United States v. Gonzalez-Mares, 752 F.2d 1485 (9th Cir. 1984) 9

United States v. Ladum, 141 F.3d 1328 (9th Cir. 1998) 9, 11

United States v. Lench, 806 F.2d 1443 (9th Cir. 1986) 9

United States v. Lester, 749 F.2d 1288 (9th Cir. 1984) 9, 11

United States v. Mandujano, 425 U.S. 564 (1976) 16

United States v. McKenna, 327 F.3d 830 (9th Cir. 2003) 16

United States v. Mescall, 215 U.S. 26 (1909) 11

United States v. Metcalf, 435 F.2d 754 (9th Cir. 1970) 10

United States v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991) 11

United States v. Rasheed, 663 F.2d 843 (9th Cir. 1984) 9, 10

United States v. Reed, 147 F.3d 1178 (9th Cir. 1998) 18

United States v. Resendiz-Ponce, 549 U.S. 102 (2007) 17

United States v. Rizk, 660 F.3d 1126 (9th Cir. 2011) 18

United States v. Russo, 104 F.3d 431 (D.C. Cir. 1997) 9

United States v. Stevens, 559 U.S. 460 (2010) 15

United States v. Thomas, 612 F.3d 1107 (9th Cir. 2010) 16

FEDERAL STATUTES AND RULES

18 U.S.C. § 1503 ..... *passim*

18 U.S.C. § 1505 11

18 U.S.C. § 1512 11

18 U.S.C. § 1515(b) 11

18 U.S.C. § 1621 13

18 U.S.C. § 1623 17

Fed. R. App. P. 35(a) 2

MISCELLANEOUS

104 Cong. Rec. S11607-08 (daily ed. Sept. 27, 1996) 11

104 Cong. Rec. S8938-40 (daily ed. July 25, 1996)..... 11

No. 11-10669

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BARRY LAMAR BONDS,

Defendant-Appellant.

OPPOSITION TO PETITION FOR REHEARING EN BANC

On December 4, 2003, Defendant-Appellee Barry Bonds, then a baseball player for the San Francisco Giants, testified under a grant of immunity before the grand jury in its investigation into the Bay Area Laboratory Cooperative's ("BALCO") Victor Conte and Greg Anderson for their involvement in the illegal distribution of performance enhancing drugs ("PEDs"), and money laundering. Excerpts of Record ("ER"):264-373. Based on his grand jury testimony, Bonds was charged with perjury and obstruction of justice. ER:259; *see* ER:198 (original indictment), 226, 247-48.

Bonds was charged under the omnibus clause of 18 U.S.C. § 1503 which provides for the punishment of a person who "corruptly or by threats or force, or

by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice." The jury was instructed that it could convict Bonds of obstruction only if it unanimously found "Statement C," part of Bonds's response to a question about whether Anderson ever provided him with any injectable substances, to be "material testimony that was intentionally evasive, false or misleading." ER:157.

The jury convicted Bonds of the obstruction count, and failed to reach a verdict on the perjury counts. ER:39-40. The district court denied Bonds's motions for a judgment of acquittal and a new trial, ER:1-20, and a panel of this Court (*Schroeder*, Hawkins, Murguia, JJ.) affirmed, holding that the evidence showed that Statement C was intentionally evasive and misleading, without reaching the government's contention that Statement C was also literally false, and holding that Bonds's indictment was sufficient. *United States v. Bonds*, 730 F.3d 890, 894-99 (9th Cir. 2013).

Bonds now seeks en banc review, but his petition is based on a hyperbolic characterization of the panel's opinion, inaccuracies about the record, and an incorrect conflation of the requirements for perjury and obstruction of justice. The panel's decision is squarely in accord with precedent and raises no question of extraordinary importance. Fed. R. App. P. 35(a). Specifically, the panel's decision does not mean that "witnesses now have an affirmative duty to turn over all

relevant information in their possession." Petition at 2-3. Rather, consistent with Circuit law, the panel's decision holds only that a witness may not, through false, misleading, or evasive statements, conceal truthful information requested by the grand jury. Nor does the panel's decision incorrectly sweep away the requirement that the government prove literal falsity under Section 1503. Petition at 3. Literal falsity has never been an element of Section 1503, whose object is not false statements, but obstructive behavior in all its forms. Nor does the panel's decision transform Section 1503 into an Orwellian thought crime. Petition at 11. The obstruction statute clearly requires the defendant to take action that could affect the grand jury's investigation, with the requisite intent. In this case, Bonds made false, misleading, and evasive statements to the grand jury; these statements were material; and he made them with corrupt intent. This Court should therefore deny en banc review.

STATEMENT OF THE FACTS

I. Trial evidence

A. Throughout his immunized grand jury testimony, Bonds consistently testified that he had no information about Anderson's distribution of PEDs

During his immunized grand jury testimony, Bonds repeatedly and consistently denied that Anderson, his trainer, ever offered, supplied, administered, or even suggested that he use steroids (ER:291, 293, 299, 305-08, 311, 320-21,

339-40, 349-50), hormone drugs, (ER:300-01, 305-07, 309-10, 338-40) or injectable substances (ER:301-03, 305-08, 313). Bonds stated that he only paid Anderson for an exercise program, and that Anderson supplied, for free from BALCO, mineral profiling through blood and urine tests, vitamin supplements, protein shakes, and at one point, what Anderson represented were flax seed oil and arthritis cream. ER:275-98, 309-10, 315, 322-23, 327, 359-60, 363-64, 372. In the grand jury, Bonds identified samples of THG, a steroid designed to elude drug testing for which he tested positive (Government's Supplemental Excerpts of Record ("SER"):573a-75), and a masking agent as the flax seed oil and arthritis cream, and he claimed that nothing Anderson did or the way the substances acted gave him any reason to believe that they were PEDs. ER:282-98, 309, 312-13, 319-21, 332-36, 340-43, 365; SER:173-74.

Bonds also testified that he knew nothing about whether or how Anderson distributed PEDs because, as a life-long celebrity, he was careful to keep ignorant of the business of even those closest to him. ER:274-75, 297, 301-02, 317-18, 350, 369-70; SER:11. Statement C, which the jury found to be obstructive, is the underlined portion of the following excerpt:

> Q: Did Greg ever give you anything that required a syringe to inject yourself with?
>
> A: I've only had one doctor touch me. And that's my only personal doctor. Greg, like I said, we don't get into each others' personal lives. We're friends, but I don't – we don't sit around and talk baseball,

> because he knows I don't want – don't come to my house talking baseball. If you want to come to my house and talk about fishing, some other stuff, we'll be good friends. You come around talking about baseball, you go on. I don't talk about his business. You know what I mean?
>
> Q: Right.
>
> A: <u>That's what keeps our friendship. You know, I am sorry, but that – you know, that – I was a celebrity child, not just in baseball by my own instincts. I became a celebrity child with a famous father. I just don't get into other people's business because of my father's situation, you see.</u>

ER:301;[1] SER:7-12.

B. Bonds knew that Anderson was distributing PEDs

In fact, Bonds knew that Anderson was distributing PEDs because he knew Anderson was giving them to at least him. While training with Anderson, Bonds sought research on injectable steroids, and later told his mistress that steroids caused his elbow injury. SER:30-35, 242-45, 250-56, 369-70, 538. Anderson talked to Bonds's personal assistant about giving Bonds steroid injections, and about how Bonds's regimen, which included THG and human growth hormone ("HGH"), typically injected into a fold of abdominal skin, was undetectable. ER:283-89; SER:37-38, 270, 282, 344. Bonds's personal shopper saw Anderson give Bonds an abdominal injection that Bonds explained was "a little some some"

[1] Bonds's entire grand jury testimony (ER:263-372) is attached.

for "when I go on the road" that "we can't detect . . . you can't catch." SER:554-56.

C. Bonds withheld evidence from the grand jury with corrupt intent

Prior to his grand jury testimony, Bonds approached Giants trainer Stan Conte ("Stan"), and told him that "it was unfair what the government was doing to" Anderson, who "was only selling the steroids to help his kid." SER:409-10. Stan responded that since they were both grand jury witnesses, they probably should not be talking about this, but Bonds continued, stating that Anderson had put Bonds's initials on some doping calendars to protect other players, and that the $60,000 found at Anderson's home during a search was for Bonds's use with female companions. SER:410-12.

Before testifying before the grand jury, Bonds accompanied his attorney to the office of Anderson's lawyer four or five times, where the lawyers had discussions. ER:351-55. Bonds also publicly announced that he had tested negatively for steroids and cut off his relationships with the people who knew otherwise. ER:334-35; SER:290-91, 358, 378-79, 556b.

II. The panel's opinion

A panel of this Court rejected Bonds's arguments that Section 1503 does not cover testimony before the grand jury, and that literal truth is an absolute defense to obstruction of justice. *Bonds*, 730 F.3d at 894-97. The panel held that under

"[e]stablished Ninth Circuit and Supreme Court precedent," Section 1503's broad omnibus clause encompasses obstructive grand jury testimony, and an evasive answer that deliberately conceals information, a misleading answer, and a false answer, can all be obstructive. *Id.* at 894-96.

The panel upheld Bonds's conviction because the trial evidence, viewed in the light most favorable to the government, showed that Bonds made Statement C, which was nonresponsive to the prosecutor's preceding question about self-injections,[2] to divert the grand jury's attention from its inquiry. *Id.* at 896. The panel found that whether Bonds eventually directly answered the prosecutor's question was irrelevant because Section 1503 punishes any endeavor to obstruct. *Id.* Statement C was also "at the very least misleading" "because it implied that Bonds did not know whether Anderson distributed steroids and PEDs" where the trial evidence showed otherwise. *Id.* Statement C was material because it "was capable of influencing the grand jury to minimize Anderson's role in the distribution of illegal steroids and PEDs." *Id.* at 896-97. The panel also found the indictment was sufficient. *Id.* at 898-99.

[2] The government argued that the question was about whether Anderson gave Bonds any injectable substances, and not about self-injection. Government's Answering Brief at 30-31.

ARGUMENT

I. Precedent and legislative history establish that Section 1503 covers obstructive grand jury testimony

Bonds argues that Section 1503 only covers intimidating conduct and that witness testimony, no matter how false, misleading, or evasive, is not within the statute's scope. Petition at 7-11. This argument is inconsistent with precedent and legislative history.

Bonds's assertion that the case law is unsettled as to whether testimony given directly to the grand jury is covered under Section 1503, Petition at 8-10 & n.3, cannot be squared with *United States v. Aguilar*, 515 U.S. 593 (1995). In *Aguilar*, the Supreme Court explained that witness testimony given directly to the grand jury may form the basis of a Section 1503 conviction. *Id.* at 599-602. "[O]ne who delivers false documents or testimony to the grand jury itself" "all but assures that the grand jury will consider the material in its deliberations." *Id.* at 601. Such conduct has the natural and probable effect of interfering with the due administration of justice and violates Section 1503's omnibus clause. *Id.* Aguilar's conduct, however, fell on the innocent "side of the statutory line." *Id.* at 600. He lied to FBI agents who might never be called to testify before the grand jury, and whose investigation had not been authorized or directed by the grand jury at the time of the inquiry. *Id.* Aguilar's lies therefore did not have the natural and probable effect of interfering with a grand jury proceeding. *Id.*

While the Supreme Court deemed it "unnecessary" to address Aguilar's argument that making false statements was not influencing "corruptly" within the meaning of the statute, *id.* at 600 & n.1, the Court "rejected" the argument implicitly. *United States v. Ladum*, 141 F.3d 1328, 1338 (9th Cir. 1998). By holding that Aguilar's conduct fell short of violating the statute because there was no nexus to an ongoing judicial proceeding, the Supreme Court implicitly held that Aguilar would have violated Section 1503 if he had made his false statements directly to the grand jury. *Aguilar*, 515 U.S. at 600-01; *cf. United States v. Russo*, 104 F.3d 431, 432, 435-36 (D.C. Cir. 1997) (upholding Section 1503 conviction based on defendant's grand jury testimony).

Nor do this Court's cases give any toehold to Bonds's contention that Section 1503 does not cover a defendant's testimony to the grand jury. *See United States v. Doss*, 630 F.3d 1181, 1187-89 (9th Cir. 2011) (explaining that in Section 1503, "corruptly" means motivated by improper purpose and supplies mens rea element); *United States v. Lench*, 806 F.2d 1443, 1445-46 (9th Cir. 1986) (withholding documents subpoenaed by grand jury); *United States v. Gonzalez-Mares*, 752 F.2d 1485, 1488, 1491-92 (9th Cir. 1984) (falsely denying under oath to sentencing judge); *United States v. Lester*, 749 F.2d 1288, 1293-94 & n.3 (9th Cir. 1984) (rejecting argument that Section 1503's omnibus clause covers only activities involving force, threats, or intimidation); *United States v. Rasheed*, 663

F.2d 843, 851-53 (9th Cir. 1984) (concealing documents subpoenaed by grand jury).

Haili v. United States, 260 F.2d 744 (9th Cir. 1958), on which Bonds relies, Petition at 8-10, never held that Section 1503 does not cover obstructive testimony. Rather, *Haili* held that under the rule of ejusdem generis, the phrase "due administration of justice" in Section 1503's omnibus clause refers to "the process of arriving at an appropriate judgment in a pending case" and "the ordinary and proper functions of the court." *Id.* at 746. Thus, although causing someone to violate the terms of her probation might interfere with the due administration of justice in a general sense, it did not violate Section 1503. *Id.* at 745. Only *United States v. Metcalf*, 435 F.2d 754, 755-57 (9th Cir. 1970), suggests that "the manner in which the statute may be violated would ordinarily seem to be limited to intimidating actions." But as *Rasheed*, 663 F.2d at 851, explained, this was dicta: the Court reversed Metcalf's conviction for lack of nexus to any specific judicial proceeding. *Id.*

Moreover, *Metcalf*'s dicta defies Congress's clear intent that the omnibus clause act as a catch-all, not limited to obstruction by intimidation or force. *Nye v. United States*, 313 U.S. 33, 52-53 (1941). Where the earlier clause of 18 U.S.C. § 1503 prohibits influencing, "intimidat[ing]," or impeding a "juror," the omnibus clause prohibits influencing, "obstruct[ing]," or impeding "the due administration

of justice." For that reason, this Court has found that Section 1503 encompasses witness tampering even though it does not mention witnesses, and even though 18 U.S.C. § 1512 does so explicitly. *See Ladum*, 141 F.3d at 1338; *Lester*, 749 F.2d at 1292-94. Bonds argues that 18 U.S.C. § 1515(b), which defines 18 U.S.C. § 1505 to cover false statements, shows that Congress only intended false statements to constitute obstruction under Section 1505. Petition at 9. This argument has it exactly backwards. Congress explained that Section 1515(b) was intended to bring Section 1505 "back into line with other Federal obstruction statutes." 104 Cong. Rec. S11607-08 (daily ed. Sept. 27, 1996); 104 Cong. Rec. S8938-40 (daily ed. July 25, 1996).

In light of the clear legislative intent, there is no place for either the rule of ejusdem generis or the rule of lenity to limit Section 1503's omnibus clause to intimidating actions. Petition at 9. The rule of ejusdem generis may not be applied to "defeat the intention of Congress or render the general statutory language meaningless." *United States v. Mescall*, 215 U.S. 26, 31-32 (1909); *cf. United States v. Poindexter*, 951 F.2d 369, 385 (D.C. Cir. 1991) (interpreting "corruptly" as transitive would render Section 1503's omnibus clause superfluous). "Where Congress has manifested its intention," courts "may not manufacture ambiguity in order to defeat that intent" through application of the rule of lenity. *Bifulco v. United States*, 447 U.S. 381, 387 (1980).

II. The panel's holding that testimony need not be literally false to be obstructive does not newly criminalize conduct

Bonds argues that if Section 1503 covers grand jury testimony, it only covers perjury, and that by rejecting a literal falsity requirement, the panel's opinion has imposed on all citizens an "affirmative duty to turn over all relevant evidence." Petition at 10. This argument does not withstand scrutiny.

First, Bonds was not convicted of obstruction of justice because he did not affirmatively reach out to law enforcement and report everything he knew about BALCO and Anderson. Bonds was convicted of obstructing justice because, after being subpoenaed to testify before the grand jury, after receiving immunity, after taking an oath to tell the truth and being given numerous opportunities through repeated questioning to tell the truth, he consistently testified in a false, misleading, and evasive fashion about what he knew regarding Anderson's distribution of PEDs.

The jury reasonably found that Statement C was an example of Bonds's obstructive conduct. While it was true that Bonds was a celebrity child, he employed that fact to craft a sham explanation about why he did not know anything about what Anderson did professionally in order to derail the grand jury's

inquiry into whether Anderson had given him injectable PEDs.[3] And, as his conversation with Stan Conte, visits to Anderson's lawyer's office, and investment in protecting his public reputation as steroid-free showed, Bonds did this intentionally to obstruct the grand jury's investigation.

Second, literal falsity is not the touchstone of Section 1503, and the panel correctly rejected Bonds's attempt to graft the requirements of *United States v. Bronston*, 409 U.S. 352 (1973), onto the obstruction statute. *Bronston* examined 18 U.S.C. § 1621, the general perjury statute, which prohibits willfully stating that a material matter that the defendant does not believe to be true is "true." 409 U.S. at 352. Based on the "precise words" of Section 1621, *Bronston* held that this requirement means that a defendant may not be convicted of perjury for an answer that is "literally true but not responsive to the question asked and arguably misleading by negative implication." *Id.* at 353, 357-58.

The precise words of Section 1503 do not require proof of falsity, and the statute intentionally covers a broad spectrum of obstructive conduct. *See Catrino v. United States*, 176 F.2d 884, 887 (9th Cir. 1949) ("The obstruction of justice statute is an outgrowth of Congressional recognition of the variety of corrupt methods by which the proper administration of justice may be impeded or

[3] Contrary to Bonds's claim, Petition at 12, the government has consistently argued that Statement C implied that Bonds did not know whether Anderson distributed PEDs. *See* ER:116; Government's Answering Brief at 28-30.

thwarted, a variety limited only by the imagination of the criminally inclined."); *see also United States v. Browning*, 630 F.2d 694, 699 (10th Cir. 1980) (distinguishing *Bronston* and explaining that the "ultimate question" in an obstruction case "is not whether the defendant told the truth but whether the defendant obstructed or interfered with the process of truthfinding in an investigation"). What makes conduct obstructive is that it blocks the flow of truthful, pertinent information to the grand jury in a manner that could affect the grand jury proceeding, and as a number of Circuits have observed, in this respect, there is no material difference between intentionally evasive and misleading testimony that conceals pertinent information and a literally false answer. *Bonds*, 730 F.3d at 895 (citing cases). Here, there was ample evidence to support the panel's conclusion that Statement C was both evasive and "at the very least misleading," if not also literally false, as the government argued, about a matter central to the grand jury's investigation. *Id.* at 896; *see* Government's Answering Brief at 27-33.

Third, contrary to Bonds's argument, Petition at 12, corrupt intent is an important limitation on Section 1503.[4] Falsity is not the litmus test for whether speech may be criminalized; rather, what matters is whether the speech is

[4] Bonds's contention that the panel's opinion makes mere intent to obstruct into a crime under Section 1503 overlooks the statute's requirement of action, an endeavor. Petition at 11. Intent is one element of the offense, not the *sole* element.

"obscenity, defamation, fraud, incitement, [or] speech integral to criminal conduct." *See United States v. Alvarez*, 638 F.3d 666, 670 (9th Cir. 2011) (M. Smith, J., concurring in denial of rehearing en banc) (citing *United States v. Stevens*, 559 U.S. 460, 468-69 (2010)); *id.* at 673-74 (Kozinski, C.J., also concurring). It was not enough that Statement C actually had the effect of blocking the flow of truthful information to the grand jury; the jury also had to find that Bonds made Statement C with this effect in mind. In fact, intent was central to Bonds's defense. Bonds argued to the jury that Statement C was just "[r]ambling, stammering, and faltering under oath," Petition at 12, that he answered questions truthfully and that he did not *intend* to conceal evidence from the grand jury. But, properly instructed, the jury rejected this defense that he lacked the requisite intent. It did so reasonably in view of entirety of Bonds's grand jury testimony, Bonds's conversation with Stan Conte, Bonds's visits to Anderson's lawyer's office, and other evidence.

Bonds claims that by holding that his eventual response to the injection question was irrelevant because he had endeavored to evade and mislead, the panel foreclosed the possibility of curing a false, evasive, and misleading answer. Petition at 14. But Bonds never asked for an instruction on curing, and he also never directly and truthfully informed the grand jury that Anderson gave him

injections of PEDs. This case therefore does not raise the question whether truthful testimony may "cure" obstructive testimony.

In any event, there is nothing novel in the idea that post-hoc conduct does not cure an already-completed crime. A robber's return of stolen goods may affect how the prosecutor, jury, judge, victims, and community regard him, but it does not negate the robbery. Likewise, this Court has held that the materiality of a false statement is to be gauged at the time the false statement is made. *United States v. McKenna*, 327 F.3d 830, 839 (9th Cir. 2003); *see United States v. Thomas*, 612 F.3d 1107, 1128-29 (9th Cir. 2010). The grand jury has a critical role as "a barrier to reckless or unfounded charges," and must be able to investigate crimes. *United States v. Mandujano*, 425 U.S. 564, 571, 581 (1976). A witness called to the grand jury "has an absolute duty to answer all questions, subject only to a valid Fifth Amendment claim." *Id.* He does not have the option of prevaricating so long as he eventually tells the truth, thereby leaving the grand jury in doubt as to which version is really true.

III. Bonds was convicted based on testimony charged in the indictment

Bonds seeks en banc review because he claims the panel's opinion eliminates the requirements of pleading ordinarily applicable in perjury and false statement cases. Petition at 16. The standards for pleading perjury do not apply to obstruction of justice.

An indictment meets the requirements of due process if it sets forth the elements of the charged offense and fairly informs a defendant of the charge against which he must defend, enabling him to bar future prosecutions for the same offense. *United States v. Resendiz-Ponce*, 549 U.S. 102, 108 (2007). Bonds's indictment met these requirements. It informed him that the government charged him with obstruction by his entire December 4, 2003, grand jury appearance to the extent the testimony was "intentionally, evasive, false, and misleading." ER:198. By referencing the first nine paragraphs of the indictment, the charge gave Bonds notice that the specific testimony at issue concerned his "knowledge and involvement with Balco," Conte and "any relationship [he] had with [Greg] Anderson," in relation to the federal investigation of "distribution of anabolic steroids and other illegal performance-enhancing drugs and the related money laundering of proceeds from the drug distributions." ER:193-95, 198. Statement C, which concerned Bonds's relationship with Anderson and explained Bonds's professed ignorance about Anderson's distribution of PEDs, was plainly within the scope of Count Five.

Bonds claims that he could not have been on notice of Statement C because it was redacted from the indictment. Petition at 16. But the redaction was in Count Two, charging a violation of 18 U.S.C. § 1623, not Count Five – the obstruction of justice count. And even in Count Two, the alleged false statement

was the answer "No, no." ER:192. The rest of the excerpt simply placed the false denial in context of the questions asked. Moreover, the indictment expressly put Bonds on notice that the scope of Count Five "includ[ed] but [was] not limited to the false statements . . . charged in Counts One through Four of this Indictment." ER:198. That is, although the statements in Counts One through Four were charged as false statements, they were also included in the testimony charged as obstructive. In any event, well before trial, Bonds was explicitly informed that the government planned to rely on Statement C. *See* Court Record 194 at pp. 7-8.

A perjury charge must state what statement is alleged to be false, but obstruction is not perjury. This Court's treatment of conspiracy cases is instructive. In those cases, the government is not limited in its proof to overt acts alleged in the indictment, and unless the applicable statute requires proof of an overt act, the jury need not specifically agree on which overt act was committed.[5] *United States v. Rizk*, 660 F.3d 1126, 1131-32 (9th Cir. 2011); *United States v. Chen Chiang Liu*, 631 F.3d 993, 1001 n.7 (9th Cir. 2011) (citing *Schad v. Arizona*, 501 U.S. 624, 631 (1991), which held that petit jurors need not agree on single means of commission).

[5] Although the panel's opinion states that the jury was "instructed correctly that to convict, it had to agree unanimously on which statement or statements qualified as intentionally evasive, false, or misleading," *Bonds*, 730 F.3d at 899, no finding of specific unanimity was in fact required. *See United States v. Reed*, 147 F.3d 1178, 1180-82 (9th Cir. 1998).

Finally, Bonds suggests that the panel's opinion means that an indictment that charges a defendant with obstructing justice through grand jury testimony lasting a week and covering wide-ranging topics would be constitutionally sufficient. Petition at 17. It plainly does not. The panel was concerned only with 2 hours and 37 minutes of grand jury testimony focused on what Bonds knew about BALCO and Anderson's involvement with PEDs and money laundering.

CONCLUSION

For the reasons set forth above, this Court should deny Bonds's petition for rehearing en banc.

Dated: January 8, 2014

Respectfully submitted,

MELINDA HAAG
United States Attorney

BARBARA J. VALLIERE
Assistant United States Attorney
Chief, Appellate Division

/s/ Merry Jean Chan
MERRY JEAN CHAN
Assistant United States Attorney

Attorneys for Plaintiff-Appellee
UNITED STATES OF AMERICA

CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 35, Circuit Rules 35-1 and 40-1, the attached answer to petition for rehearing en banc is:

_X_ Proportionately spaced, has a typeface of 14 points or more and contains 4,194 words (petitions and answers must not exceed 4,200 words)

__ Monospaced, has 10.5 or fewer characters per inch and contains _____ words or _____ lines of texts (petitions and answers must not exceed 4,200 words or 390 lines of text)

__ In compliance with Fed. R. App. P. 32(c) and does not exceed 15 pages

Dated: January 8, 2014

/s/ Merry Jean Chan
MERRY JEAN CHAN
Assistant United States Attorney

CERTIFICATE OF SERVICE

I, Hui Chen, certify that I am an employee of the Office of the United States Attorney, Northern District of California, a person over 18 years of age and not a party to the within action. I certify that on January 8, 2014, I electronically filed the

- **United States's Opposition to Defendant's Petition for Rehearing En Banc**

in the case of *United States v. Barry Lamar Bond*, CA11-10669, with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: January 8, 2014

/s/ *Hui Chen*
Hui Chen
Legal Assistant

ATTACHMENT
(ER263-372)

1 THURSDAY, DECEMBER 4, 2003; 1:23 P.M.
2
3 BARRY BONDS,
4 having been first duly sworn, testified as follows:
5
6 EXAMINATION
7 BY MR. NEDROW:
8 Q. Yes, please have a seat, sir. Thank you.
9 Good afternoon, sir, could you please state
10 your name and spell your last name for the record?
11 A. Barry Bonds, B-o-n-d-s.
12 Q. Mr. Bonds, good afternoon.
13 A. Mm-hmm.
14 Q. Mr. Bonds, you received a subpoena to testify
15 before the grand jury today; is that correct?
16 A. Did I receive it today or just receive it?
17 Yes, I received one, yes.
18 Q. Previously received a subpoena --
19 A. My lawyers did, yes.
20 Q. And because of that subpoena you're here to
21 testify today; is that correct?
22 A. Yes.
23 Q. Okay. Now, I want to go through a few things,
24 Mr. Bonds. I know we've kind of talked in depth, but I
25 need to do it on the record here. So, if I could just

1 take a moment to do that.
2 Mr. Bonds, you understand that you are present
3 here today as a witness before this grand jury; is that
4 correct?
5 A. Yes.
6 Q. And you do you understand that this is an
7 ongoing investigation by the grand jury into alleged
8 illegal activities undertaken by Victor Conte and Greg
9 Anderson? Do you understand that as well?
10 A. I understand those two people are involved,
11 yes.
12 Q. And do you understand, if not I'll inform you,
13 that at least some of the charges being looked at as to
14 these individuals' activities include violations of
15 Title 21 United States Code, Section 846, which is
16 conspiracy to possess or distribute illegal substances.
17 And also 18 U.S.C., Section 1956, the money laundering
18 statute.
19 Do you understand -- do you understand what I'm
20 saying that those are the types of charges that this
21 grand jury is looking at in connection with Mr. Conte
22 and Mr. Anderson?
23 A. This is the first time I've heard exactly how
24 you're stating it. I've just seen what was in the
25 paper.

1 Q. But you understand as I say it --
2 A. As you say it, I understand what you're talking
3 about now.
4 Q. Okay. Thank you.
5 Mr. Bonds, I want to go over a couple of rights
6 that you have in connection with your testimony today
7 before we get to the substance.
8 Do you understand that you have the right -- if
9 you have a good faith belief that your statements are
10 going to potentially be incriminating or have a concern
11 about those statements to consult with your counsel
12 outside the grand jury room; do you understand that?
13 A. I understand I can consult my attorney if
14 there's something I do not understand.
15 Q. And I'd like to ask you at this point, if you
16 don't understand a question that I put to you, either
17 because I ask it badly, which does happen, or if I just
18 say it in a confusing way -- do you understand I would
19 ask you to ask me to clarify it rather than try to
20 answer or guess at it.
21 Do you understand that?
22 A. Yes. You are confusing. I'm telling you.
23 Is he confusing to you guys? I'm glad it's not
24 just me.
25 Q. Let's try to keep it as simple as possible.

1 All right. And I appreciate that. I've been
2 told that before. So, let me make sure I can keep it as
3 straightforward as I can.
4 But seriously, if you don't understand a
5 question, please ask me to rephrase it and I will, okay?
6 A. Okay.
7 Q. Thank you.
[...]

6

7 Q. Okay. And in connection with that, let me
8 actually go over an order. You received an order
9 through your lawyer a short time before testifying
10 today; is that correct?
11 A. Yes.
12 Q. And I'm actually going to go over the text of
13 that order. And I'd like to make sure that you're
14 comfortable with it before we proceed. The order says
15 the following:
16 In motion of Kevin V. Ryan, United States
17 Attorney for the Northern District of
18 California, the Court hereby finds and
19 orders as follows: First, Barry Bonds may
20 be called to testify before the grand
21 jury; [...]
[...]
25 [...] ; and three, in the

7

1 judgment of the United States Attorney the
2 testimony and other information to be
3 obtained from Barry Bonds is necessary to
4 the public interest; and four, the motion
5 filed here has been made with approval of
6 the designate of the assistant attorney
7 general in charge of the criminal division
8 of the Department of Justice pursuant to
9 the authority invested in him by 18
10 U.S.C., Section 6003 and 28 C.F.R. 0.175,
11 it is therefore ordered that Barry Bonds,
12 as soon as he may be called, shall testify
13 under oath and provide other information,
14 including documents in this case, and in
15 any further ancillary proceedings. It is
16 further ordered that the testimony and
17 other information compelled from Barry
18 Bonds pursuant to this order, including
19 personal or business records, the fact of
20 his production of any records, and any
21 information directly or indirectly derived
22 from such testimony may not be used
23 against him in any criminal case except a
24 prosecution for perjury, false
25 declaration, or otherwise failing to

1 comply with this order. It is further
2 ordered that the government's application
3 of this order be placed under seal until
4 further order by the court, except that a
5 copy of this order may be served on the
6 witness and/or his counsel and disclosed
7 to the grand jury conducting the
8 investigation in this matter."
9 And this is filed on December 1 of this year
10 and signed by United States District Judge Maxine
11 Chesney, C-h-e-s-n-e-y.
12 So, Mr. Bonds, you received a copy of the order
13 that I just recited; correct?
14 A. Yes.
15 Q. So, again, I guess, just to make sure as best I
16 can do it, in plain-speak, we go through what that
17 means.
18 The presumption, Mr. Bonds, is that people have
19 a Fifth Amendment right not to make statements that they
20 have a belief might incriminate themselves. After
21 reading that order do you understand that fundamental
22 principle?
23 A. Yes.
24 Q. Okay. Now, do you understand that for today's
25 purposes you've been ordered to testify, but there are

1 limitations as to how the government could use those
2 statements against you in the future.
3 Do you understand that?
4 A. Yes.
5 Q. And those limitations are that, because you're
6 compelled to answer questions put by myself, Mr. Nadel,
7 or the grand jury -- because you're being compelled, the
8 government can't use those statements either directly
9 against you in any subsequent criminal proceeding or
10 indirectly to develop evidence against you in a
11 subsequent criminal proceeding.
12 Do you understand that?
13 A. Yes.
14 Q. Okay. Now, there's an exception to what I just
15 said. And so let me make sure that that exception is
16 clear. And is exception is that if it were to be the
17 case that you were untruthful today or false -- and I
18 have no reason to think that you would be today, but I
19 say this to every witness that comes in here -- if there
20 were a prosecution for perjury, false declaration, false
21 statements or otherwise failing to comply with this
22 cord, that would be a circumstance where these
23 statements could be used against you.
24 Do you understand that?
25 A. Yes.

1 Q. All right. Great. I think that that concludes
2 the legal questions before we get to the substance of
3 things.
4 Do you have any questions about these rights
5 that I've discussed before we get to the substance of
6 the questions?
7 A. No.
8 BY MR. NADEL:
9 Q. Mr. Bonds, Ross Nadel. I'm also an assistant
10 United States attorney.
11 We have had an opportunity -- namely, yourself;
12 your lawyer, Michael Rains; Mr. Nedrow; myself; and an
13 IRS agent -- to speak briefly before this session began;
14 is that right?
15 A. Mm-hmm -- yes.
16 Q. And did we also discuss what Mr. Nedrow just
17 summarized, the use of immunity order, during that
18 session within the last hour?
19 A. Yes.
20 Q. And did I explain it during that session?
21 A. Yes.
22 We've had our disagreements.
23 Q. Now, having had that conversation with your
24 lawyer present --
25 A. Right.

1 Q. Your lawyer is Michael Rains in connection with
2 this proceeding?
3 A. Right.
4 Q. And he is outside the grand jury room; is that
5 correct? As far as you know.
6 A. As far as I know.
7 Q. And having had that conversation in the
8 presence of your attorney and then with the explanation
9 and the questions that Mr. Nedrow just asked you, is
10 there anything that you're unsure of with regard to the
11 use of immunity order compelling you to testify that we
12 need to clear up now?
13 A. No, none at all.
14 BY MR. NEDROW:
15 Q. Okay. Great. Mr. Bonds, you're a professional
16 baseball player?
17 A. Correct.
18 Q. And you play for the San Francisco Giants;
19 correct?
20 A. Correct.
21 Q. How long have you been a professional baseball
22 player?
23 A. Since 1985.
24 Q. And how long have you been with the Giants?
25 A. Since 1993.

1 Q. Okay. And one more background question and
2 we'll move on, but what would you describe as your
3 best -- or the athletic achievement you're most proud
4 of?
5 A. My draft in, when I was drafted in 1985.
6 There's no better achievement than fulfilling your goal.
7 Q. Okay. You also in 2001, I think, set the
8 single-season home run record; correct?
9 A. Correct.
10 Q. And you hit 73 home runs that year; is that
11 correct?
12 A. Correct.
13 Q. And Mr. Bonds, what's your birth date?
14 A. July 24, 1964.
15 Q. Mr. Bonds, I want to ask you some questions
16 about the individuals we identified as the targets of
17 this investigation. And let me start with Greg
18 Anderson, actually.
19 How long have you known Greg Anderson?
20 A. Since we were children.
21 Q. And if I could be a little more -- ask you to
22 be a little more precise, I know you might not remember
23 the exact year or date, but how old approximately do you
24 think you were when you met him? Elementary school,
25 high school?

1 A. Fifth grade, 6th grade, somewhere around there.
2 Q. So, you've known him -- and again, please
3 correct me if I'm wrong if I'm wrong on this, but some
4 25 to 30 years?
5 A. Right. Greg and I also lost touch with each
6 other, too.
7 Q. Okay. During what period of time did you lose
8 touch?
9 A. Since high school. Greg's family moved. So,
10 Greg -- I haven't seen Greg since high school. And I
11 got in touch with Greg, I think it was 1998. So, I
12 haven't seen Greg for a long time in between there.
13 But, I mean, we were childhood friends.
14 Q. And then beginning in 1998 you guys
15 reestablished contact; is that correct?
16 A. Correct.
17 Q. At the time you reestablished contact with him,
18 what was the nature of the relationship? Was it a
19 personal, professional relationship, or --
20 A. I had a previous trainer that kind of did
21 everything for me. And Greg is a weight lifting
22 trainer. And we're friends, grew up together, go over
23 there to see what he does, I liked his philosophy, and
24 we started working out together.
25 Q. Okay. And has that relationship continued to

1 the present date or did it end at some point?
2 A. No. We still train today.
3 Q. And when you said "over there" to see what he
4 was about, where was, in '98, Mr. Anderson working or
5 training out of?
6 A. He's been training out of World's Gym, from
7 what I know of. That's where I train is at World's Gym
8 until Burlingame.
9 Q. At the time you got back in touch with Greg, if
10 I can just ask, did someone mention to you that Greg was
11 involved in weight training? Or did you guys personally
12 get back in touch? Or how did that happen?
13 A. I don't know how that happened. Greg and I
14 have a mutual friend, the McKercher family, which -- his
15 mother is down with cancer at this time. And I think we
16 ran into each other and that's how we started talking
17 again. I believe it was at the end of the '98 season.
18 I'm not exactly sure.
19 Q. Okay. At the time you started working out with
20 Mr. Anderson again, what was he providing to you or what
21 were you getting out of his training advice?
22 A. Well, I felt that, you know, I was getting
23 rugged with my other trainer, you know, doing the same
24 thing over and over again. And, you know, sometimes you
25 need a change. You know, you need to move on, to push

1 your body to another level, have another coach. And
2 that's what it came down to.
3 And I liked Greg's philosophy. Greg is -- I
4 train all year-round. I just don't train just in
5 off-season. I train all year-round. That's almost -- I
6 take three weeks -- two weeks to a month off at any
7 given point in my career. So, I'm in that gym every
8 day, okay?
9 Q. Okay.
10 A. And I like Greg's philosophy. Because my other
11 trainer was, like: You do three sets of legs, three
12 sets of this, three -- you know. And Greg is more: 16
13 sets of chest, more biceps, to really maximize and
14 expand your muscle. And I liked that philosophy. And I
15 admired that.
16 And I just believe people are experts in
17 their -- you know, in each of their fields. I have a
18 running coach, I have a stretch and flexibility coach, I
19 have a strengthening coach. I just believe people are
20 experts in their field, and there's not a one shop stop,
21 that's all.
22 Q. The things you've talked about are
23 prescriptions or regimens for weight training basically;
24 is that accurate?
25 A. Yes.

1 Q. Besides providing you with advice on weight
2 lifting systems, did Mr. Anderson provide you with
3 anything else in connection with your working out with
4 him?
5 A. Vitamins and protein shakes.
6 I also was with Twin Lab too at that time.
7 Q. Sorry?
8 A. I also was with Twin Lab at that time, too.
9 Q. Twin Lab -- what's Twin Lab?
10 A. Twin Lab is a vitamin company, provides
11 vitamins.
12 Q. Did Mr. Anderson ever talk to you about giving
13 blood tests or urine tests? I'm sorry. Let me make it
14 more clear.
15 Did he ever ask you to provide blood samples or
16 urine samples for testing?
17 A. Yes.
18 Q. When did he start asking you to do that, right
19 off the bat or as time went on?
20 A. I don't know, I believe it was maybe 2000,
21 2001, I believe so.
22 Q. And did he explain to you why he wanted to test
23 your blood or your urine?
24 A. He wanted to do a blood test sample to try to
25 regulate your levels, if you're lacking in zinc or

1 magnesium or, you know, like, your deficiency in your
2 body. And I was curious about it. You know, that's a
3 unique thing to find out. And to supplement it with
4 food. I have a cook. So, I had a cook, and I had a
5 nutritionist at Stanford, a lady that was telling us,
6 you know, all the nutrition stuff, too. And Greg was
7 also helping in that.
8 And then to take the blood test at BALCO was
9 just the thing to figure out what you're deficient in
10 and be able to supplement that with vitamins or food
11 intake. And I thought it was just a neat idea.
12 Q. Okay. How many times did you provide blood
13 samples for testing? Was that a common thing or just
14 happen a few times? Or what would you estimate?
15 A. I don't know, maybe five or six times, maximum.
16 Q. And would that be all within the 2000, 2001
17 period, or would it be over the last several years?
18 A. Over the last -- all the way until now, this
19 year.
20 Q. And regarding the urine samples -- let me ask,
21 I guess, the same questions regarding the urine samples.
22 How often did you provide those?
23 A. Oh, I can't recall. Maybe four times, maybe.
24 I don't recall.
25 Q. So, understanding four would be kind of an

1 estimate, but kind of in the ballpark, or around four?
2 A. Yes.
3 Q. Did he ask you why -- or, excuse me, did he
4 tell you why urine samples?
5 A. No. I didn't -- we were friends. I didn't ask
6 Greg a bunch of questions. We are friends, we grew up
7 together, you know, we don't do that stuff. If he needs
8 something, fine, fine.
9 Q. Does Greg, in addition to the weight lifting,
10 have a background in terms of the nutritional-type
11 stuff?
12 A. He says he studied, you know. He -- to me he
13 seems pretty knowledgeable.
14 Q. Okay, okay.
15 MR. NADEL: Excuse me, Mr. Bonds.
16 The -- Mr. Nedrow just asked you about the
17 urine samples, and if you asked Mr. Anderson why he was
18 asking you to provide them. Did he tell you -- besides
19 whether you asked, did he tell you why he was asking you
20 to provide urine or blood samples.
21 THE WITNESS: For my regulations of what my
22 body intake is, that -- you know, just to regulate my
23 body, what the deficiencies is in my body.
24 My dad did it. You know, my family did it.
25 BY MR. NADEL:

1 Q. Did you provide the blood samples directly to
2 Mr. Anderson?
3 A. Yeah, I had my own personal doctor come up to
4 draw my blood. I only let my own personal doctor touch
5 me. And my own personal doctor came up and drew my
6 blood and Greg took it to BALCO.
7 Q. What about the urine samples?
8 A. Same thing, come to my house, here, go.
9 Q. That was the doctor, that was at your house,
10 and provided it to --
11 A. Yes.
12 Q. -- to Mr. Anderson; right?
13 A. Yes.
14 Q. Did he tell you where those samples would be
15 tested?
16 A. Where he was taking them?
17 Q. Yes.
18 A. I believe BALCO.
19 Q. Did he tell you that?
20 A. Yeah -- yes.
21 Q. Did he tell you what he was going to test them
22 for?
23 A. I believe it was the same thing for the blood,
24 the blood and the thing are the exact same thing. So, I
25 didn't ask him.

1 Q. I'm not asking what you believed or what you
2 asked him. I'm asking what he told you.
3 Did he tell you --
4 A. I can't recall, I cannot recall.
5 Q. So, you don't know whether or not he mentioned
6 what --
7 A. I cannot recall specifics, no, not at all.
8 MR. NADEL: Good.
9 BY MR. NEDROW:
10 Q. Since you -- sorry we're going to be popping up
11 and down a little bit. But we'll try to do it at the
12 same time.
13 But you referenced BALCO, so let me now ask you
14 about BALCO. What was Greg's connection or relationship
15 with BALCO?
16 A. I have no idea their personal relationship or
17 any -- their relationship. I don't get into anyone's
18 business like that.
19 Q. Okay. How is it -- and, well, I think you
20 already answered this question. You knew from Greg that
21 your samples were being tested at BALCO; is that
22 correct?
23 A. That's correct.
24 Q. Did Greg ever explain to you what BALCO was?
25 Or what did he say to you about BALCO?

1 A. He said that, you know, this is where hospitals
2 would send samples, because most hospitals don't keep
3 their blood intakes from, you know, patients and stuff
4 like that. They send them out to labs. Makes sense to
5 me.
6 Q. Sure, fair enough.
7 A. I'm like, fine, okay. And you know, I want --
8 I was just baffled like, you know, should have been
9 doing this a long time ago, you know, drawing blood,
10 finding out what you're lacking and stuff, you know,
11 keep your energy up if you're this or that. And that
12 was it. That's all I thought about.
13 Q. Did Greg actually work for BALCO?
14 A. No. They were friends.
15 Q. I'm sorry?
16 A. I think they're friends.
17 Q. And when you say "they," who are friends?
18 A. Greg and the guys at BALCO.
19 Q. Let's get into that.
20 Do you know a person named Victor Conte?
21 A. Yes.
22 Q. Approximately when do you think you met Victor
23 Conte?
24 A. I met Victor the first time Greg took me to
25 BALCO to explain to me how the blood deficiency thing

1 was. And I did an ad for BALCO. And I may have seen
2 Victor twice or three times, maximum.
3 Q. Okay. So -- and I want to make sure I'm right
4 on this, is Greg the person who introduced you to Victor
5 Conte?
6 A. Yes.
7 Q. What did Greg tell you specifically, if you can
8 remember it, about what Victor could provide to you?
9 A. Greg only took me there for Victor for the
10 blood.
11 Q. Okay.
12 A. That's it.
13 Q. All right. Other than understanding that you
14 could get help with the blood analysis, did you ever get
15 any other services from Mr. Conte?
16 A. Victor?
17 Q. Yes.
18 A. No.
19 Q. Let me ask the same question about Greg at this
20 point, we'll go into this in a little bit more detail,
21 but did you ever get anything else from Greg besides
22 advice or tips on your weight lifting and also the
23 vitamins and the proteins that you already referenced?
24 A. This year, in 2003 -- at the end of 2002, 2003
25 season, when I was going through -- my dad died of

1 cancer, you know, and everyone knows that.
2 Q. Yes. I'm sorry about that.
3 A. And everyone tries to give me everything. You
4 got companies that provide us with more junk to try than
5 anything. And you know that as well.
6 I was fatigued, tired, just needed recovery,
7 you know. And this guy says: "Try this cream, try this
8 cream." And Greg came to the ballpark and he said, you
9 know: "This will help you recover," and he rubbed some
10 cream on my arm, like, some lotion-type stuff, and,
11 like, gave me some flax seed oil, that's what he called
12 it, called it some flax seed oil, man. It's, like:
13 "Whatever, dude."
14 And I was at the ballpark, whatever, I don't
15 care. What's lotion going to do to me? How many times
16 have I heard that: "This is going to rub into you and
17 work." Let him be happy. We're friends. You know?
18 Q. When did that happen for the first time?
19 A. Not until 2003, this season.
20 Q. And when you say 2003 --
21 A. You said everything that he gave me, so that
22 means up to now.
23 Q. Exactly, you're exactly right. You're right
24 about my question. All right. So, we'll get into that
25 in some detail. But I appreciate that. Let me ask a

1 couple quick questions before we get to that.
2 I want to talk for a moment -- you mentioned
3 the vitamin and the protein shakes. Can we get into
4 this in a little bit more detail. And these are the
5 things that we would characterize as over-the-counter
6 type stuff. Can you give us a brief summary of that
7 type of stuff that Greg gave you?
8 A. I was going to bring a package for you, but
9 unfortunately I got up at four o'clock this morning to
10 train before I got here and forgot it. But Greg
11 packaged it up for me, so I never saw the actual bottles
12 that he was taking it from. They would come in just
13 little, clear plastic. And they would have -- there's
14 probably like ten or 12 different pills in there. And
15 you're talking about multivitamin to vitamin E to omega
16 threes, to, you know, ZMA -- the ZMA that BALCO had --
17 to liver pills to oxygen, you know, anything -- he'd
18 abbreviate it and call it whatever.
19 But I had no reason to doubt what he was giving
20 me, because we were friends. No reason to doubt him.
21 Q. Let me ask you, then, about this flax seed oil
22 thing that you mentioned.
23 Tell me a little bit more about what that
24 looked like, if you could, please?
25 A. It came in, like, a -- what is that that you

1 have right there?
2 Q. Actually, I'm sorry. I probably should have
3 put this out to make it more efficient, and ask you if
4 this looks familiar to you at all?
5 A. Yeah, that's what it looked like. And he -- it
6 would be, like, this much (indicating). And you would
7 get, like, two drops underneath your tongue, like
8 this -- you know, like -- you ain't taking this whole
9 thing (indicating). It was this little bit right in
10 here.
11 And I was, like -- you know, to me it didn't
12 even work. You know, me, I'm 39 years old. I'm dealing
13 with pain. All I want the pain relief, you know?
14 Q. Mm-hmm.
15 A. And, you know, to recover, you know, night
16 games to day games. That's it. And I didn't think the
17 stuff worked. I was, like: "Dude, whatever," but he's
18 my friend, you know?
19 Q. And you know what I should do is, we previously
20 identified this item as an exhibit for the record, I
21 think, but let's re-identify it for today's record and
22 we'll match them up later on.
23 Want to make sure there's no overlap between
24 the exhibits. But we'll call this Exhibit 501 and that
25 is the plastic vial that you have there.

1 And let me also ask -- I'm including 501 -- let
2 me ask you about the other item, yes, is that consistent
3 with the -- with Mr. Anderson giving you this -- did he
4 give you something to take the --
5 A. Like this (indicating)?
6 Q. Yes.
7 A. No, he never gave me this.
8 Q. Did not. So, you don't recognize that at all?
9 A. No. It was in this (indicating). He brought
10 it to the ballpark.
11 Q. Right, okay.
12 A. And it was in this (indicating).
13 Q. Right.
14 A. And it was this much (indicating) inside this.
15 Like a little bit of this. And then I just go like this
16 (indicating) and throw it in the trash.
17 Q. Okay. So, you just -- it was so small you'd
18 just drink the contents in a small amount?
19 A. Yeah, it might have been even a smaller tube
20 than this (indicating), you know. I don't know if they
21 come in different sizes. But it was a tube like this
22 (indicating). I'd open it up like this (indicating),
23 take a little bit, go like this underneath my tongue,
24 and then throw it away.
25 Q. Did he say anything about -- go ahead.

1 BY MR. NADEL:
2 Q. Mr. Bonds, just to make sure -- especially, as
3 you can see, to my right there's a court reporter who's
4 taking down what's being said. There were a lot of
5 "this's" in those questions and answers. And I just
6 want to make sure it's clear.
7 When you referred to "this" and held up
8 something that you were given some liquid from, are you
9 referring to the tube there that has some kind of
10 gold-colored fluid in it right in front of you?
11 A. Pertaining to a tube that was called flax seed
12 oil to me.
13 Q. And it looked something like that tube in front
14 of you?
15 A. It looked something exactly like that.
16 Q. And then the other "this" which was the thing
17 you said no, you didn't see, was the thing to the right
18 that looks kind of like a hypodermic needle?
19 A. Yes, whatever you want to call it.
20 Q. And that you didn't -- you don't recognize at
21 all?
22 A. That's not something I was given.
23 Q. Just to make sure that it's clear what we're
24 talking about in the record.
25 BY MR. NEDROW:

1 Q. And -- all right. So, how many times
2 approximately do you think you got these tubes with what
3 Mr. Anderson told you was flax seed oil?
4 A. Maybe once a home stand or something, if that.
5 Greg didn't travel with me on the road. So, I was at
6 home, when I came home.
7 Q. And the first time was the beginning of this
8 year's season, in 2003?
9 A. Yes, 2003, because I was battling with the
10 problems with my father and the -- just the lack of
11 sleep, lack of everything.
12 Q. Okay.
13 A. And I had a bunch of massage people trying to
14 keep me going and, you know, a lot of training and stuff
15 like that. And I was just getting fatigued and not
16 recovering.
17 Q. Okay. Had you ever taken flax seed oil, by the
18 way, before?
19 A. I never asked Greg. When he said it was flax
20 seed oil, I just said: "Whatever." It was in the
21 ballpark.
22 Q. Right.
23 A. You know, in front of everybody. I mean, all
24 the reporters, my teammates. I mean, they all saw it.
25 I didn't hide it. I didn't hide -- I didn't hide

1 anything.
2 I mean, I didn't question anything when he --
3 you know, if I'm at the ballpark or something -- you
4 know, trainers come up to me and say: "Hey, Barry, try
5 this." I don't really question it, move on. You know?
6 Q. Okay. Did you even know what flax seed oil was
7 at the time he presented it to you?
8 A. Not really. Not at all.
9 Q. Every time he gave it to you, did it have this
10 very small amount? Did he ever give you, like, an
11 eyedropper or any other mechanism to --
12 A. No. It all came in that (indicating) and I
13 just took it and threw it in the trash.
14 Q. This will be approximate, probably, but
15 approximately how many home stands back and forth do you
16 have during a season? Is it --
17 A. I have no idea.
18 Q. No idea.
19 A. You can look it up.
20 Q. Look at the schedule. Okay.
21 But you think about one a home stand is
22 accurate?
23 A. That's pretty much accurate.
24 BY MR. NADEL:
25 Q. Did you notice after you took it that it had

1 any affect -- appeared to you to have any affect on you
2 at all?
3 A. I -- I told him: "It's not doing crap. I'm
4 still in pain. I'm still feeling the pain."
5 Q. You, yourself --
6 A. I still felt fatigued and had a heart condition
7 in Arizona. It's not working.
8 Q. And other than what Mr. Anderson told you, you
9 didn't know what this substance consisted of at all?
10 A. No. I had no reason to doubt him. We were in
11 the ballpark, inside the stadium. You know, if I was
12 somewhere else, maybe, I probably would have -- I'm not
13 that way, sir. Sorry. I'm not the type of person to
14 pry into people's business. And I really believe my
15 friends.
16 Q. Well, let me ask you this, if Mr. Anderson came
17 to you at the ballpark with some other substance,
18 whatever it is, if he asked you to take some other
19 substance and said it was some other type of oil,
20 whatever he asked you to take, would you take it?
21 A. I would trust that he wouldn't do anything to
22 hurt me.
23 Q. Okay. But you wouldn't ask any further
24 questions. You'd just basically -- because he's your
25 friend, if he asked you to take it, you would take it?

1 A. He would do the same thing for me.
2 BY MR. NEDROW:
3 Q. Okay. And regarding the effects of it, were
4 there any negative effects, like side effects, that you
5 could remember from it?
6 A. Not that I know of.
7 Q. Other than telling you it was flax seed oil,
8 did Greg ever tell you anything else about what the
9 substance was?
10 A. No.
11 Q. Did he ever -- and I know -- some of these
12 questions I've just got to ask. I know you're going to
13 say: "I just told you 'no.'" But did he ever tell you
14 it was, like, a chemically or molecularly altered
15 steroid? Did Greg ever tell you anything like that?
16 A. No, because my other trainer Harvey, who is 50
17 years old, was taking the same stuff. So, I didn't have
18 any reason to say anything. And he said it's flax seed
19 oil. And he gave it -- I mean, he's my strengthening
20 coach. So, there was no reason to doubt him.
21 BY MR. NADEL:
22 Q. Mr. Anderson had never given you anything or
23 asked you to take anything before the 2003 season; is
24 that right?
25 A. We never had those discussions. We don't

1 discuss about his -- you know, part of his world of
2 business is his business. My business is my business.
3 So, we don't --
4 Q. I'm asking --
5 A. No.
6 Q. That's not my question. My question is --
7 A. No.
8 Q. -- prior to the last season, you never took
9 anything that he asked you to take, other than vitamins?
10 A. Right. We didn't have any other discussions.
11 Q. No oils like this or anything like this before?
12 A. No, no, no, not at all. Not at all.
13 BY MR. NEDROW:
14 Q. And let me ask, in the -- and I'm asking more
15 about your interactions with Victor Conte, but did you
16 ever discuss this substance specifically with Victor
17 Conte?
18 A. I didn't ever talk to Victor Conte except the
19 times I seen him. And those were times that he
20 presented to the blood thing to explain it to me. And
21 when I did the ad for his muscle magazine because I
22 thought he was giving Greg all this stuff for free,
23 because I never paid for anything. I was never charged
24 anything.
25 So, I thought Greg was getting the vitamins and

1 protein shakes for free. And I still believe he is but
2 I don't know the truth of it. I don't know. So, I was,
3 like, okay, he did me a favor, I could do his magazine.
4 Q. Did Greg tell you where he got the flax seed
5 oil from?
6 A. I never asked him, I just assumed it was BALCO.
7 I never asked him.
8 Q. What made you assume it was BALCO?
9 A. Because they're friends, you know. I just
10 assumed it was them.
11 Q. But you don't recall Greg ever saying he got it
12 from BALCO or anything like that?
13 A. I don't recall that, no.
14 Q. During the 2003 season when you testified you
15 took that item that you understood was flax seed oil,
16 did it ever change -- did Greg ever talk to you about it
17 changing into a different form or having a different
18 kind of look to it? Or do you remember it changing at
19 all?
20 A. No.
21 Q. Okay. I want to ask you about another thing.
22 And as I bring it up, Mr. Bonds, let me ask you
23 this question. And that is, in connection with this --
24 thank you, I'll put that back -- did Mr. Anderson ever
25 give you an item that looks like that, Exhibit 502,

1 which he identified to you as a cream of some sort to
2 put on your body, basically?
3 A. Yeah, this is that lotion stuff. It looks like
4 it from -- just from me looking at it, it's the same
5 color.
6 Q. Let me ask you about the lotion stuff, as you
7 called it.
8 What did Greg tell you the lotion was?
9 A. I just told Greg that I was having problems
10 recovering. I -- the pain -- I have bad arthritis.
11 I've played 18 years, bad knees, surgeries, so on. And
12 I said: "I just need to recover," you know, that's all,
13 the pain -- "Just take the pain away." In the early
14 part of my baseball career -- you could get certain
15 pills that you could take. And I said: "I don't want
16 to be addicted to anything, I don't want to be addicted
17 to pain pills and stuff like this to take pain away."
18 There's got to be -- you know: "They're rubbing all
19 this stuff on me, there's got to be something that you
20 can --" you know, that can loosen me up, you know, to
21 take the arthritis pain away that I feel in the mornings
22 when it's super cold. And they'll -- you know, they'll
23 try certain heats, they'll try so and so, but I still
24 feel the pain.
25 And he said: "Okay, you know, let me check."

1 And he goes: "Well, try this." You know? And he
2 rubbed it right here (indicating).
3 Q. Can you indicate what you mean by "right here"
4 so it's --
5 A. Right on my -- just right inside of the arm
6 right here.
7 Q. Okay. Like your elbow, whatever that is,
8 inside your elbow, there?
9 A. Yeah. He'd rub it right here. And he was --
10 you know, I was like whatever. You know, I was at the
11 ballpark, so I didn't really think anything. You know,
12 sorry, but, I mean, he came to me at the ballpark.
13 MR. NADEL: Just going back to Mr. Nedrow's
14 original question. Did Mr. Anderson ever tell you what
15 that substance was?
16 THE WITNESS: No. He just said: "Here, try
17 this, it might help."
18 BY MR. NEDROW:
19 Q. And you didn't ask him what it was?
20 A. No.
21 Q. How often were you supposed to take that
22 lotion? Or administer, I guess, whatever you want to
23 say. How often were you supposed to put that on?
24 A. I didn't take it that often at all. I can't
25 recall how many times, but it wasn't much at all.

Q. Did either this -- or actually 501, the prior thing, did it come in cans -- or vials like that? Did they have any, like, labels or packaging or anything, or did they just come in vials like that?

A. This one didn't come in this (indicating). I believe only that (indicating) -- whatever number, right there, the flax seed oil, 501 stuff, came like that.

Q. Okay.

A. This one he brought in like a flatter tube with a top, like more of a rounded top thing. And then he had like a little -- just like a little spoon. And he'd just go like this (indicating) and just rub it on your arm.

Q. Okay.

A. And I didn't think anything of it. He'd rub it on -- rub it right on my skin. I didn't even think anything of it.

Q. Did he give you any instructions on how often to -- I know you said you didn't take it that often. But did he give any instructions, like, you know: "Use this once a home stand," or once a week or whatever it might be?

A. You're assuming that I had this -- I never had any of this stuff with me. Greg brought it to me, brought it to the ballpark.

1 Greg comes to the ballpark every day, and we
2 train every day.
3 Q. I see.
4 A. So, I never held -- got anything. I never took
5 anything home, nothing. He came with the ballpark and
6 then, you know, I would go train -- we'd go train in the
7 gym.
8 Q. I see.
9 A. And then I'd come back, I'd be tired or
10 fatigued, or so and so. And then my other trainer is
11 rubbing my ankles, feet, legs, and I'm going through the
12 whole massage thing, getting ready for a game.
13 Q. Okay, okay. Thank you for clarifying that.
14 Do you remember how often he recommended to you
15 about, approximately, that you take this cream, this
16 lotion?
17 A. I can't recall. I don't -- I wish I could. I
18 just can't... I just know it wasn't often. I just
19 think it was more when I was exhausted or tired than
20 like a regular regimen. You know, it was like if I was
21 really sore or something, really tired.
22 Q. Okay. I'm sorry. Were you done?
23 A. Yeah, that's -- that's -- that's all I can
24 remember about that.
25 Q. Would you say -- and I'll leave it at this --

1 but would you say it was more or less often or about the
2 same as the amount of times you took the liquid, the
3 flax seed oil, the thing you understood to be flax seed
4 oil?
5 A. I don't know. I never kept track of that
6 stuff. I'm sorry. I didn't sit there and monitor that
7 stuff.
8 Q. And what were the results or the effects of
9 this lotion? Did you find it helpful to you?
10 A. I thought it was -- oops.
11 Q. I'm sorry?
12 A. Oops. I -- I almost said something.
13 I thought it was really bad. I didn't think it
14 did anything, to be honest with you. I didn't think it
15 did anything.
16 Q. Any negative side effects?
17 A. I still felt the pain.
18 Q. That's negative.
19 A. Well, I was already in pain. So, it didn't
20 help, you know? And you put ice pack on and it will
21 take the pain away, you know.
22 Q. Right.
23 A. To me, I, you know -- like I say, there's a lot
24 of companies and people that come up with a lot of
25 gimmicks with us.

1 Q. Right.
2 A. You try it, you make them happy, instead of you
3 have these long conversations with them all day why it's
4 better than this product, this product. You kind of
5 just say: "Here, be happy," move on.
6 Q. Did Greg ever talk to you about this cream
7 actually being a steroid cream that would, you know,
8 conceal steroids or testosterone in your blood, did Greg
9 ever ask -- tell you about that?
10 A. No, no.
11 Q. Okay. Let me ask you about a few other
12 things -- oh, I'm sorry, one more thing.
13 Did you ever talk to Victor Conte about this
14 lotion or this cream?
15 A. No. I have -- like I said, I only talked to
16 Victor Conte when I saw him. I never talked to Victor
17 Conte any time other than that, that I can recall, ever.
18 Q. Did Greg tell you where he was getting that
19 lotion or that cream from?
20 A. No. But I assume it was BALCO.
21 Q. And again, about this cream, why would you
22 assume it was from BALCO?
23 A. Because they were friends, you know.
24 Q. They were friends. But of course, it wasn't
25 just because they were friends, it was because BALCO

1 made stuff or provided stuff, I mean --
2 A. I never been in BALCO long enough to know
3 anything they did. I was in the front room, the front
4 of the building, okay? I had my personal doctor do my
5 blood. That's it. I went to the back to a weight room
6 to do an ad for them. I can't tell you what's in that
7 building because I don't know.
8 Q. How many times have you been into BALCO?
9 A. Two to three times at the max.
10 Q. And where is BALCO located in connection with
11 the gym, World Gym, that Greg uses for his workouts?
12 A. Right down the street.
13 Q. Did Greg ever talk to you about something
14 called norbolothone?
15 A. Who?
16 Q. Norbolothone.
17 Did you ever hear of that?
18 A. I never heard of that. Sorry.
19 Q. All right. Did Greg ever talk to you or give
20 you anything called human growth hormone?
21 A. No.
22 Q. Did he ever talk to you about anything called,
23 as a shorthand term, something called G? The G? And I
24 use that as an abbreviation, I guess, something called
25 the G. Did he ever talk to you about the G?

A. I don't know what G is.

Q. Do you recall Greg ever trying to give you G, something he called G?

A. No.

Q. Did Greg ever give you anything that required a syringe to inject yourself with?

A. I've only had one doctor touch me. And that's my only personal doctor.

Greg, like I said, we don't get into each others' personal lives. We're friends, but I don't -- we don't sit around and talk baseball, because he knows I don't want -- don't come to my house talking baseball. If you want to come to my house and talk about fishing, some other stuff, we'll be good friends. You come around talking about baseball, you go on. I don't talk about his business. You know what I mean?

Q. Right.

A. That's what keeps our friendship. You know, I am sorry, but that -- you know, that -- I was a celebrity child, not just in baseball by my own instincts. I became a celebrity child with a famous father. I just don't get into other people's business because of my father's situation, you see.

So, I don't know -- I don't know -- I've been married to a woman five years, known her 17 years, and I

1 don't even know what's in her purse. I have never
2 looked in it in my lifetime. You know, I just -- I
3 don't do that, I just don't do it, and you know, learned
4 from my father and throughout his career, you don't get
5 in no one's business, you can't -- there's nothing they
6 can say, you can't say nothing about them. Just leave
7 it alone. You want to keep your friendship, keep your
8 friendship.
9 Q. Did either Mr. Anderson or Mr. Conte ever give
10 you a liquid that they told you to inject into yourself
11 to help you with this recovery type stuff, did that ever
12 happen?
13 A. No.
14 Q. Okay. At this time, Mr. Bonds, the grand jury
15 has --
16 MR. NADEL: If I could just go back to
17 Mr. Nedrow's question a few moments ago.
18 MR. NEDROW: Okay.
19 BY MR. NADEL:
20 Q. I wasn't sure if I heard the answer to the
21 question.
22 Other than your own personal doctor that you
23 referred to --
24 A. Well, the team -- you know, you have to have a
25 physical. I'm sorry. Forgot about the team. You have

1 to have a physical, they take blood from you then. But
2 I wouldn't let no one, no. That's why my personal
3 doctor drew the blood for BALCO to begin with.
4 Q. So no one else other than perhaps the team
5 doctor and your personal physician has ever injected
6 anything in to you or taken anything out?
7 A. Well, there's other doctors from surgeries. I
8 can answer that question, if you're getting technical
9 like that. Sure, there are other people that have stuck
10 needles in me and have drawn out -- I've had a bunch of
11 surgeries, yes.
12 Q. So --
13 A. So sorry.
14 Q. -- the team physician, when you've had surgery,
15 and your own personal physician. But no other
16 individuals like Mr. Anderson or any associates of his?
17 A. No, no.
18 BY MR. NEDROW:
19 Q. Just to follow-up before I go on to my other
20 thing, have you ever yourself injected yourself with
21 anything that Greg Anderson gave you?
22 A. I'm not that talented, no.

[...]

[...]

[...]

10 Did you ever get a blood sample taken from your
11 doctor and have it mailed off or Fed-Ex'd off?
12 A. Greg said he had 30 minutes to get it there, or
13 it's no good after 30 minutes. That's why he'd come to
14 my house, and my doctor would come to my house and draw
15 my blood, and Greg would drive it down to BALCO.
16 Q. Okay. Did you ever -- based on that, then, did
17 you ever send him by Fed-Ex or by overnight mail a blood
18 sample to Greg?
19 A. My doctor is here. I'm not going to be
20 somewhere else if my doctor lives here. No one's going
21 to -- no.
22 Q. Does your doctor ever go to visit you in spring
23 training?
24 A. No.
25 Q. Okay. Let me go --

1 BY MR. NADEL:
2 Q. Were there ever any instances when you gave
3 blood or provided a blood sample during the time frame
4 of spring training that was provided to Mr. Anderson
5 either at spring training or anywhere else?
6 A. Impossible. Greg said he had 30 minutes to
7 take blood samples down there and put it in some
8 machine.
9 Q. Has he ever received a blood sample from you at
10 spring training himself, personally?
11 A. No.

12 BY MR. NEDROW:

[...]

19 Q. And let me ask you again, did Mr. Anderson ever
20 give you an item that he referred to as G, or the G, and
21 charge you money consistent with that?
22 A. Once again, Greg and I are friends. I never
23 paid Greg for anything.
24 I gave Greg money for his training me. Greg
25 has never asked me for a penny, ever. That is our

47

1 friendship. So, I have never seen -- you're going to
2 bring up documents and more documents. I have never
3 seen anything written by Greg Anderson on a piece of
4 paper. I know he has a computer, but I have never
5 looked or seen anything in his computer. So, I don't
6 know why this would be here. And right then, February,
7 March, I'm not even here. And I don't know why because
8 Greg would -- Greg and I are friends. There's no way
9 Greg's going to come up to me and say: "Here, do this,
10 and --" no, never. I would never do it to him.
11 BY MR. NADEL:
12 Q. And he never gave you any boxes that either
13 were labeled or he told you contained something referred
14 to as G?
15 A. No.
16 BY MR. NEDROW:
17 Q. And, again, just to be clear and then I'll
18 leave it, but he never gave you anything that you

19 understood to be human growth hormone? Did he ever give
20 you anything like that?
21 A. No.
22 Q. And, again, I guess we've covered this, but --
23 and did he ever give you anything that he told you had
24 to be taken with a needle or syringe?
25 A. Greg wouldn't do that. He knows I'm against

1 that stuff. So, he would never come up to me -- he
2 would never jeopardize our friendship like that.
3 Q. Okay. So, just so I'm clear, the answer is no
4 to that, he never gave you anything like that?
5 A. Right.
6 Q. Did he ever -- I think you answered this, but
7 did he ever even discuss it with you, like: "You might
8 want to take some human growth hormone. This might be
9 something might help you," and then you shot him down?
10 Do you remember something like that happening?
11 A. You know, everyone talks about steroids at one
12 point or another, players or whatever. But, no, we
13 didn't talk -- we didn't have a conversation like a
14 one-on-one type thing like that.
15 Conversations may have come up years and years
16 back like that, but it was like a dead issue, like
17 what's the -- whatever.
18 Q. Right, and I guess the distinction I'd make is
19 sure, I'm not necessarily saying talking about: "Oh,
20 look, there's something in the paper about steroids" or
21 whatever. I'm focusing on Greg working with you as a

22 coach or a trainer for you and suggesting to you or
23 encouraging you to take the growth hormone?
24 A. Greg wouldn't jeopardize our friendship that
25 way.

[...]

6 Q. Okay. And this -- and we'll call this
7 Exhibit 504. This is a bottle of depotestosterone.
8 And let me ask, Mr. Bonds, if you recognize
9 this item as something that you ever received? Or does
10 that look like anything you ever got from Greg Anderson?
11 A. I have never, ever seen this bottle or any
12 bottle pertaining that says depotestosterone.
13 Q. And other than me just reading from the label
14 and telling you what it is, do you know what that is?
15 A. I know it's a form of steroid.
16 Q. Right. It's an injectable steroid, right,
17 depotestosterone?
18 A. Well, I -- testosterone, I believe you can get
19 a prescription from the doctor, as well.
20 Q. Right. For --
21 A. Sc, it's not an illegal drug. So, I don't
22 know -- what part are you talking about?
23 Q. Right. Without getting into all the legal
24 aspects of it right now, my question is, basically,
25 testosterone or depotestosterone, do you know one way or

1 the other if that's an injectable steroid?
2 A. I would imagine -- if it comes in a liquid
3 thing like this (indicating), I would imagine it is,
4 yes.
5 Q. All right. And again, I got to ask you these
6 questions.
7 Did Greg ever give you testosterone in
8 injectable form for you to take?
9 A. No.
10 Q. Would you have taken it if he gave it to you?
11 A. He wouldn't jeopardize our friendship that way.
12 Q. And why would that -- you're very clear that
13 that would jeopardize your friendship.
14 Why would that jeopardize your friendship?
15 A. Greg is a good guy. You know, this kid is a
16 great kid. He has a child.
17 Q. Mm-hmm.
18 A. Greg is -- Greg has nothing, man. You know
19 what I mean? Guy lives in his car half the time, he
20 lives with his girlfriend, rents a room so he can be
21 with his kid, you know? His ex takes his kid away from
22 him every single five minutes.
23 He's not that type of person. This is the same
24 guy that goes over to our friend's mom's house and
25 massages her leg because she has cancer and she swells

1 up every night for months. Spends time next to my dad
2 rubbing his feet every night.
3 Our friendship is a little bit different.

[...]

7 Q. Does the term "clear" and "cream" mean anything
8 in terms of the things you were getting from Greg?
9 A. No. Unless you're talking about this stuff
10 (indicating) this lotion, cream stuff. It's a form of
11 cream.
12 Q. Right. And that's what I was going to ask you
13 is certainly that's a cream. Did he ever refer to this,
14 501, and that vial, 502 -- did he ever call those -- and
15 specifically 501, did he ever call that clear?
16 A. He called this flax seed oil to me. And he may
17 have said clear -- lotion, clear, to me. I mean, to me
18 it looked like lotion.

[...]

21 Do you know what Clomifend is?
22 A. Never heard of it.
23 Q. Have you ever taken it?
24 A. I've never heard of it.
25 Q. All right. So, if I were to tell you it's an

1 anti-estrogen prescription drug that is not typically
2 taken by athletes, but typically taken to address
3 fertility issues, do you know anything about that? Are
4 you aware of that?
5 A. I've never heard of it, so I'm not aware of it.
6 Q. All right. Okay. All right.

[...]

10 Other than the things that we've talked
11 about -- and let me make sure I've got it straight: we
12 have the vitamins, protein shakes, and please correct me
13 if I'm wrong, and then we have the flax seed oil and the
14 cream, but not, according to your testimony, the depo --
15 did Mr. Anderson ever give you anything else to take in
16 connection with your weight lifting that you can think
17 of?
18 A. Not that I know of. There's like Proglycem
19 (phonetic) type things like you pour in water and shake
20 it up and drink, and you have the protein shakes.
21 Q. Right.
22 A. No, nothing -- I left out the Proglycem things,
23 it's called the after pre-workout thing that you take.
24 I forgot, he gave me that, too.
25 Q. Okay. All right. I just want to make sure --

1 A. I called it Proglycem. It's something like
2 that. Because I don't know the name. I don't have it
3 so I don't know. He tells me.
4 Q. Did he ever give you anything called EPO or I
5 think it's erythropoietin? Did he ever give you
6 anything like that?
7 A. I couldn't even pronounce it. So there's --
8 Q. I couldn't either.
9 A. So, no, no.
10 Q. Did he ever give you something called modafinil
11 or vitamin M or vitamin S? Did he ever give you
12 anything like that?
13 A. I've never heard of it.
14 Q. I know the answer -- let me ask you this again.
15 I know we kind of got the into this. Let me be real
16 clear about this. Did he ever give you anything that
17 you knew to be a steroid? Did he ever give a steroid?
18 A. I don't think Greg would do anything like that
19 to me and jeopardize our friendship. I just don't think
20 he would do that.
21 Q. Well, when you say you don't think he would do
22 that, to your knowledge, I mean, did you ever take any
23 steroids that he gave you?
24 A. Not that I know of.
25 Q. Let me ask you, in terms of you knowing about

1 it, what do you mean by not that you know of?
2 A. Because I have suspicions over these two items
3 right here (indicating).
4 Q. Okay.
5 A. And that's the only reason. But I haven't
6 asked him. I haven't gotten there. So, I'm just
7 suspicious over this stuff right here (indicating).
8 BY MR. NADEL:
9 Q. When did you start becoming suspicious about
10 those items?
11 A. Like -- during this whole investigation thing
12 when you're hearing about it and reading and how it's
13 made and stuff like that. I'm like: "Wait a minute,"
14 you know, I'm thinking to myself, like: "What is this
15 stuff?"
16 Q. So, before BALCO was in the media?
17 A. No, this was after they were in the media.
18 Q. No suspicious previously?
19 A. No, I didn't -- I was at the ballpark. There
20 was no reason. I mean, why would you think in front of
21 all these people -- I mean, I wouldn't think Greg would
22 give me something in front of all these people at the
23 ballpark.
24 But because you're presenting it to me it
25 brings some suspicion to my mind. That's what I'm

1 saying. Okay? That's all.
2 BY MR. NEDROW:
3 Q. Were there any affects that came from those two
4 items that made you think: "Gee, this has effects like
5 steroids, you know, he didn't tell me it was a steroid"?
6 A. That don't have any affect to anything, I'll
7 tell you right now. If it's a steroid, it ain't
8 working.
9 Q. All right. Did Greg ever give you syringes for
10 any purpose?
11 A. No.

[...]

17 Let me ask about Gary. You train, actually,
18 with Gary Sheffield; right?
19 A. Mm-hmm.
20 Q. When did you start training with Gary
21 Sheffield?
22 A. Gary trained with me, what, 2000 -- 2000 --
23 after the 2001 season.
24 Q. Okay.
25 A. I mean, between all the times that Gary trained

1 with me, if you totaled it all up it would be maybe a
2 whole one off season. When Gary had his child the next
3 off season, he stayed a week or two and then went home.
4 Gary started to work with Greg on his own. Greg would
5 go down to see Gary.
6 Q. How did Gary meet Greg?
7 A. Through me.
8 Q. And I guess just so we're clear, very quickly,
9 Gary Sheffield plays on another professional baseball
10 team; right?
11 A. The Atlanta Braves. Or free agent now.
12 Q. Or free agent now.
13 So, when we're talking about your training with
14 him, obviously it's in the off season?
15 A. Yeah, Gary would travel up, stay for a week, go
16 back home, come back a couple weeks later. Gary was on
17 his own program. He'd train whenever he wanted to train
18 and go home. But we're friends, so whatever, if I can
19 help him, I help him.
20 Q. Okay. And would one of the time frames he'd be
21 here be, like, late November, early December after the
22 season was over? Does that sound consistent with the
23 time he'd come up?
24 A. Yeah, he would come up then, yeah.

[...]

17 Q. Okay. Did he ever give you, like, invoices of
18 the vitamins and things that he provided you, like, give
19 you written --
20 A. Our friendship goes too far back for that, no,
21 never. I never paid Greg for anything.

[...]

58

[...]

22 Did Greg work with the Giants trainers in
23 connection with your training regimen? In other
24 words --
25 A. No.

59

1 Q. Okay. Well, no is the answer to that.
2 A. No.
3 Q. Did you also -- so, let me ask. Did you have a
4 training regimen with the Giants as well as with Greg?
5 Or was it just with Greg? Or how does that work?
6 A. The training regiment is my training. They
7 actually work for me, you know? I'm the one who's going
8 out there playing baseball; not them.
9 It's kind of like one hand shakes the other,
10 you know? You got to understand about sports or just
11 anybody successful, Bill Gates, anyone you want to talk

12 about. If I took eight Advils before a game, you know,
13 a player is going to take eight Advils and think that
14 it's the thing to do.
15 Q. Sure.
16 A. You know, my training was -- everyone thinks
17 that, you know, because I -- I started this whole
18 training thing all year-round program. And I had to
19 teach them a lot of things.
20 You know, Greg was into body building type
21 things. I had to teach him some things about baseball
22 players, to keep the flexibility and stuff.
23 Q. Mm-hmm.
24 A. You know, we -- Greg is just a loyal person,
25 you know, he's there. And I need somebody that can be

1 there. And the trainers I have can be there on a
2 regular basis. So, if I want to train at night or in
3 the morning or four o'clock in the morning, I don't have
4 any problems with that. We've just all built a
5 relationship that way.
6 Q. How many other players besides Mr. Sheffield
7 did you refer to Greg Anderson?
8 A. Refer?
9 Q. Yes, if any.
10 A. I don't refer anyone to Greg Anderson. They
11 want to train with me, and Greg Anderson happens to be
12 one of my trainers.
13 Q. Okay. How --
14 A. Eric Young was one. He lasted about two weeks
15 and went home.

16 Q. I'm sorry. What was the name?
17 A. Eric Young was one. He lasted about two weeks,
18 and he went home.
19 Q. It's a tough regimen; right?
20 A. It's tough. It's no joke.
21 Q. Well, you've referred -- I'm sorry. That's the
22 wrong word to use. But how many other players came to
23 you came to -- worked with Greg Anderson, whether it be
24 on the Giants or other teams, besides Mr. Young and
25 Mr. Sheffield?

1 A. None.
2 Q. None?
3 A. None.
4 Q. Did you ever talk to Armando Rios about working
5 with Mr. --
6 A. Armando -- you got to understand, all these
7 guys, if they trained with Greg, they'd be training with
8 me, because Greg is with me every day.
9 Q. Okay.
10 A. So, no, I don't believe he trained with them.
11 Because he -- he's with me.
12 Q. What about Benito Santiago?
13 A. No way. There's no way. Benito ain't training
14 that hard. There's no way. I'm sorry. I love him...
15 BY MR. NADEL:
16 Q. You said that --
17 A. I neither is Armando.
18 BY MR. NADEL:

19 Q. You said that Mr. Anderson is with you every
20 day.
21 Does he go with you to spring training?
22 A. For just the weekend. He'll come in -- because
23 he has other clients at the gym, you know, that needs
24 training. So, he'd come from, like, Friday to Sunday.
25 And so we'd just modified my training. Because normally

1 I go, like, Monday, Tuesday, Wednesday off, Thursday,
2 Friday. So, we modified to where I worked out when he
3 got here to make sure I trained.
4 Q. Was that pretty much the habit that during
5 spring training he would come on weekend?
6 A. Every other weekend.
7 Q. Every other weekend during spring training?
8 A. Yeah, for the past couple years, yeah.
9 BY MR. NEDROW:
10 Q. Okay. And actually I think you answered this,
11 then, but let me go back and clarify this.
12 Did the Giants training staff have any
13 involvement in working with you with Mr. Anderson?
14 A. No way.
15 Q. Okay. And back --
16 A. We don't trust the ball team. We don't trust
17 baseball.
18 Q. Why not?
19 A. Because I was born in this game. Believe me.
20 It's a business. Last time I played baseball was in
21 college. I work for a living now.

22 Q. Yeah?
23 A. Yeah.
24 Q. Okay.
25 A. I don't trust their doctors or nothing.

1 Q. Let me ask you about -- since you mentioned
2 doctors, a couple other doctors. Have you ever heard of
3 a doctor named Dr. Brian Halavie-Goldman?
4 A. I ain't never heard of him.
5 Q. Never heard of him?
6 A. No.
7 Q. Okay. And did Greg ever tell you when you were
8 getting that -- what, again, you understood to be flax
9 seed oil and that cream, did he ever tell you, like, to
10 be careful about who you talked to about it, like:
11 "Hey, you know, don't talk to other athletes --"
12 A. No.
13 Q. "-- or other people about it?"
14 A. No.
15 Q. He never told you to be careful with it or
16 anything like that?
17 A. No, I didn't have it.
18 Q. I'm sorry. Okay. I understand you didn't have
19 it right, correct.
20 A. You're assuming I had it. I never had it.
21 Q. I'm sorry. You said that before. Well, let me
22 ask you this. In terms of giving it to you, did he ever
23 say: "Be cool or be quite with who you talk to it
24 about," basically?

25 A. No. He did it right there in the locker room

1 in front of everybody.
2 Q. Okay.

[...]

19 Q. Did Greg ever talk to you -- or Victor Conte
20 for that matter, either of them, ever talk to you about
21 testosterone, epitestosterone ratios in one's blood?
22 A. No. I wouldn't even understand it anyway. So,
23 they wouldn't talk to me about that.
24 Q. Why do you say you wouldn't understand it? In
25 terms of, if they explained to you what that meant -- I

1 mean, you're a sharp guy. You'd understand what that
2 meant; right?
3 A. I wouldn't understand the ratios.
4 Q. Okay.
5 A. I'm not in that business. I wouldn't
6 understand ratios. If someone came up to me and said:
7 "This is a test," sure, I would understand what they
8 meant.
9 Q. Okay.
10 A. But I wouldn't understand what they're talking
11 about in ratios and stuff, no.
12 Q. Okay.
13 BY MR. NADEL:
14 Q. Has anyone ever attempted to explain EPI and

15 ratios relating to EPI, or epitestosterone?

16 A. No, not at all. Nor have I ever seen any of

17 these documents.

18 Q. But you haven't had any conversations

19 everything ever about that subject?

20 A. No, not at all.

21 Q. Do you remember?

22 BY MR. NEDROW:

[...]

66

[...]

67

[...]

2 Q. Did Greg ever talk to you about something

3 called Trenbolone?

4 A. The who? I never even heard of it.

5 Q. Okay. Fair enough. Just asking. So, you've

6 never heard the word Trenbolone, then?

7 A. At all.

8 Q. Did he ever use the word Trenbolone to talk

9 about one of the components or a part of what was in

10 this clear oil that he said was flax seed oil, did he

11 ever talk to you about that?

12 A. No. Like I said, he just brought it to the

13 ballpark and said: "Here," and I said: "Fine." That

14 was it.

[...]

68

[...]

69

[...]

70

[...]

6 Q. So, basically all the stuff that you got to
7 take on a nutritional or recovery -- that is, the
8 nutritional stuff and the recovery stuff, you believed
9 to be free; correct?
10 A. I believed it to be free.
11 Q. But you did pay Greg for his help on the weight
12 coaching and training?
13 A. Exactly.
14 Q. How much did you pay him on the weight
15 training?
16 A. I paid Greg $15,000 for the whole year.
17 Q. A year, okay. And is that about how much
18 you've paid him each year you've worked with him about?
19 A. Each year about, yes.
20 Greg didn't want any money from me. I felt
21 guilty. I said: "Dude, let me at least do something."
22 He would train me for free. But he has a kid that he
23 wanted to get to school. And he has an ex-girlfriend

24 that's nagging him about it. So, I said: "Dude, let me
25 at least give you something." So -- his son goes to the

1 same school my daughter goes to, a Montessori school.
2 So at least give me some money to keep your kid in
3 school. And we'll call it even, you know, and that's
4 what we did.
5 Q. Did you pay him in cash or checks?
6 A. I paid him cash.
7 MR. NADEL: All at once?
8 THE WITNESS: Sometimes all at once, and I
9 think sometimes I split it up. It's however he wanted
10 it. Friend of mine.
11 BY MR. NEDROW:
12 Q. And that's -- and understanding that $15,000,
13 depending on one's salary, may not be itself a lot of
14 money, but that's a lot of cash to have on hand at any
15 given time, like, $15,000? I mean --
16 A. I make 17 million.
17 Q. Understood. But still, having that much on
18 hand, I'm not necessarily trying to -- it's still a lot
19 of cash to have on hand at a given time, or is it not?
20 A. It's a lot of cash to have on hand. That's why
21 I get it out of my hands, get it into somebody else's
22 hands and let him worry about it.
23 Q. All right. Fair enough.

[...]

[...]

15 Q. Now, earlier this year, February of this year,
16 do you recall -- were you giving him blood samples at
17 that time, say, in February of this year? Do you
18 remember giving him blood samples or urine samples?
19 A. February back -- I can't recall. I don't know.
20 Q. Okay.
21 A. I don't know. That's too far back for me to
22 know.
23 Q. I'm talking about this year.
24 A. Talking February.
25 Q. February of this year.

73

1 A. It's December.
2 Q. Right. I understand.
3 A. I don't recall February -- if I gave him blood
4 in February.

[...]

74

[...]

75

[...]

76

[...]

77

[...]

78

[...]

79

[...]

18 Q. So, I guess I got to ask the question again, I
19 mean, did you take steroids? [...]
20 [...] So, I'm going to ask you in
21 the weeks and months leading up to November 2000, were
22 you taking steroids --
23 A. No.
24 Q. -- or anything like that?
25 A. No, I wasn't at all. [...]

80

[...]

25 MR. NEDROW: Okay. Just a quick moment,

81

1 Mr. Bonds.
2 (Discussion off the record.)
3 MR. NEDROW: Okay. At some point -- it's
4 around the time we should take a break.
5 Is now the time?
6 GRAND JUROR: This would be a good time.
7 MR. NEDROW: Mr. Bonds, the grand jury -- at
8 their request, in part, we're going to take -- and today
9 we'll take a 15-minute break, come back at 3:00 o'clock.
10 During that period of time, Mr. Bonds, you're free to
11 step down and just be back here at 3:00 o'clock. 2:48
12 p.m.
13 (A recess was taken from 2:48 p.m. to
14 3:04 p.m.)
15 MR. NEDROW: Everyone back, everybody ready?
16 What I anticipate to do is, for scheduling, having
17 Mr. Bonds go for 45 minutes to an hour, and then, again,
18 after him we have one more witness after him,
19 Mr. Santiago.
20 BY MR. NEDROW:
21 Q. Mr. Bonds, before we get back to the substance,
22 for the court reporter, real quick, you mentioned the
23 name earlier on of a family friend that you and Greg had
24 a long relationship with. Was it Kercher? Could you
25 spell that for the court reporter, please?

1 A. McKercher, M-c-K-e-r-c-h-e-r.

2 Q. Okay. Mr. Bonds, I want to go back to Victor
3 for a second a just ask you a couple questions. You
4 testified that you only actually met him two or three
5 times; is that correct?
6 A. Yes, definitely.
7 Q. Please tell us what you talked about with
8 Mr. Conte in those conversations with him.
9 A. We talked about drawing the blood, the levels.
10 Q. Right.
11 A. And then did the ad for him.
12 Q. All right. And what was it that motivated you
13 to do the ad for him? What assistance had he provided
14 you that led you to do the ad?
15 A. Because I thought the vitamins and shakes that
16 he was giving to me, my family, other people for free --
17 not to me, to Greg, it wasn't to me, it was Greg, but it
18 was free, it was like for a favor, for a favor.
19 Q. When you're talking about the ad you did for
20 him, that's specifically that spread where you appeared
21 with Greg and Victor in Muscle & Fitness magazine;
22 correct?
23 A. Right.
24 Q. And you also gave some statements in that where
25 you said, I think your words were you were shocked with

1 how much he had helped you or you were very pleased with
2 how much it helped you, or words that effect, does that
3 sound correct? Is that correct?
4 A. I don't recall the entire interview. I don't
5 recall what was ad lib by the writer, either. I deal
6 with media on a regular basis that exaggerate and lie
7 and tell stories. But, I mean, I wouldn't -- I would
8 say, yes, I said, you know, that it's helped me.
9 Q. And when you were talking about the help it
10 provided, you were referring specifically to the
11 vitamins and shakes and things of that sort?
12 A. I was specifically saying that the drawing of
13 the blood, being able to analyze your levels of your
14 body, that's what I was pertaining it to. Plus, boost
15 his ego. You know, it's an ad. You know? There's a
16 lot of ads out there for junk that still doesn't work.
17 Q. Again, just so I'm clear, did Mr. Conte ever
18 discuss with you those items, specifically the flax seed
19 oil and the cream, did you have any discussion with him
20 ever about that?
21 A. Never.
22 Q. Okay. But you did have either the assumption
23 or the belief -- you tell me the right words -- that
24 that stuff came from BALCO Laboratories; correct?
25 A. I assumed that's where Greg was getting it

1 from. I don't know where Greg got it from. I never
2 went with Greg or followed him or checked or anything
3 like that. I was just assuming because they're
4 associated.
5 Q. Okay. All right. And did Mr. Conte ever talk
6 to you about -- did he ever make any statements to you
7 like: "Hey, you know, don't tell anybody you got that
8 stuff from me," or try and disassociate himself or
9 anything like that?
10 A. No. He was very professional when I was in
11 there. He would talk more about ZMA. It was a ZMA
12 interview --
13 Q. Okay.
14 A. -- that I did for that spread.
15 Q. Okay.
16 A. More ZMA. And when I stated what they'd done
17 for me, as you quoted I stated, was the fact that it was
18 the -- the regulation of blood was the thing that I was
19 assuming to.
20 Q. Okay. When did you last either speak with or
21 meet Mr. Conte? When did you last have any contact?
22 A. Oh, I haven't seen him since the ad. I haven't
23 seen him or talked to him since I did the interview.
24 Q. And that was -- and again, tell me if I'm
25 right, June 2003, May or June 2003, something like that?

1 A. Something like that. I don't remember.
2 Q. But this year, earlier this year?
3 A. I believe so, yes.
4 Q. And what about -- just this one question, what
5 about when you last saw or had any contact with
6 Mr. Anderson?
7 A. I see Greg every day.
8 Q. Okay. You're still regularly training with
9 him?
10 A. Right.
11 Q. Even after all the stuff in the newspapers and
12 all that stuff?
13 A. That's right.
14 Q. And has Greg, you know, made any statements to
15 you about, you know, his identification as a target of
16 this thing? Has he made any comments to you about --
17 about these matters regarding --
18 A. Not personal matters, but he said he believes
19 he's a target.
20 Q. Mm-hmm.
21 A. The only thing I asked Greg: "What's it like
22 getting your door blown down? Dude, I never seen
23 anything like that except on TV." That's about as far
24 as we went on it.
25 You know, I don't want to know, because it

1 keeps our friendship as it is. I don't want to get
2 involved. I don't want him to tell me something or me
3 to say something that is going to affect him later on or
4 anything. And so we don't talk about it. I mean
5 there's probably other people in that gym that probably
6 talk about it all the time. The guy's in the paper
7 every day. Well, so am I. Well, I do ask him about
8 being a celebrity: "Now you know what I go through on
9 an everyday basis," stuff like that. We talked about
10 that, but that's about it.
11 Q. Other than just working out, have you had any
12 contact with him in connection with this case at all?
13 I'm sorry, let me ask a different question.
14 Other than working out with him and seeing him
15 as a friend, have you had any other meetings or contact
16 with him?
17 A. You mean outside of the gym?
18 Q. Yes.
19 A. Yes.
20 Q. Okay. What kinds of meetings?
21 A. He came over with his kid.
22 Q. Okay.
23 A. His kid and my daughter go to the same school.
24 They went to -- they had their -- I think it was the
25 Thanksgiving party, I believe so, I don't remember,

1 Thanksgiving party. We were all there.
2 Q. Okay.
3 A. The kids had their school singing thing. He
4 was there, you know.
5 Q. Okay. So --
6 A. Yeah, we still see each other outside and we
7 have kids in the same school.
8 Q. Let me move on to a different topic. And I
9 think you've testified to this. But I want to make sure
10 it's crystal clear.
11 Every time you got the flax seed oil and the
12 cream, did you get it in person from Greg?
13 A. Yes.
14 Q. Is that fair?
15 A. Yes.
16 Q. And where would you typically get it? Where
17 would you guys be when he would hand it to you
18 generally?
19 A. In front of my locker, sitting in my chair.
20 Q. Did he ever come to your home and give it to
21 you?
22 A. Oh, no, no, no. It was always at the ballpark.
23 Q. Why do you say no so quickly? If it's no big
24 deal to get that stuff, why wouldn't he give that to you
25 at home?

1 A. When I go home, I go home. I don't like people
2 at my house after a game. You know? Like I say, I'm a
3 celebrity child, and my father was never home. I make
4 it very important for me to be at home with my family.
5 And I really don't like anyone around.
6 Q. Okay. When you say that you usually got the
7 items 501 and 502, specifically the liquid and the
8 cream, from Greg at the locker room at Pac Bell Park,
9 basically; is that correct?
10 A. Yes.
11 Q. Would it occur typically before a game or after
12 a game or in the morning when you're working out? Or
13 when would you typically get it?
14 A. It was always before the game.
15 Q. And just to be clear -- and I'll move on after
16 this. Again, did either he or Mr. Conte ever send you
17 anything in the mail --
18 A. No.
19 Q. -- whether it be a Fed Ex or overnight mail?
20 A. No.

[...]

[...]

[...]

91

[...]

92

[...]

2 BY MR. NEDROW:

3 Q. Let me ask you, because you've actually -- and

4 I don't want to get into this in detail in terms of the

5 media, but you have been asked before about whether or

6 not you've used steroids; correct? You've been asked

7 that question before?

8 A. Yes.

9 Q. And isn't it true that you've responded that

10 you've been tested and that you -- your test results are

11 negative and you're negative for steroids, you don't use

12 steroids. I mean, isn't that basically how you've

13 responded to that question?

14 A. I responded to it this season. We got tested

15 unannounced twice this season.

16 I don't trust baseball. Okay? They say it was

17 anonymous. They're not supposed to know. But, you

18 know, no one understands this whole thing when they say

19 certain medicines that you take could come up positive.

20 So, you know, everyone was like: "Wait a minute, we're

21 supposed to stop taking Tylenols" and so and so?

22 Because they didn't really specifically explain it to us

23 in detail, you know.

24 So, then they gave -- they surprised me with a
25 test. And that's as soon as you walk in there, they

1 take you and they do it. But then you have to put your
2 name on it. So, I don't trust baseball. So, I asked
3 Greg -- I appealed on the same day and I asked Greg: "I
4 want to know -- I want to know what baseball's doing
5 behind our backs."
6 Q. And did Greg ever -- did Greg ever offer you
7 anything --
8 A. I never saw the papers. Never saw the results.
9 Greg just said: "You're -- you're negative."
10 Q. Okay. So, your basis for telling people: "I'm
11 negative" is Greg telling you you're negative; correct?
12 A. Basically Greg. I didn't see the papers.
13 Q. I'm sorry. Mr. Bonds, but I have to ask
14 because you are a professional athlete, and an
15 enormously successful athlete, but your trust in Greg
16 with these items that don't have packages on them and
17 trusting him on his word, without looking at these
18 results, I mean, that's a lot of trust for somebody
19 whose body is, as you said, your work, your life, isn't
20 it?
21 A. It's exactly right. You're right. I did trust
22 Greg. And I have other people that have put stuff on my
23 skin, too. I also have trainers in the organization I
24 trust that put cream and stuff on me, too. I put a lot
25 of trust in a lot of people, we do as athletes.

1 Q. But do you ask them questions about what this
2 stuff is, where they're getting it, you know, that sort
3 of thing?
4 A. No, besides: "It's hot" or "It's cold" or "We
5 don't like it," that's about it. I mean, if we had to
6 ask questions about every single item, we'd be there for
7 a while. If you had to go take it to go test it to make
8 sure it's -- you know, that's not how it works in there.
9 Q. Did you ever sign a contract, a written
10 contract of any kind, with Greg in terms of this whole
11 weight lifting thing?
12 A. No. We're friends. We don't need contracts.
13 Q. Did you ever sign a contract with Victor Conte?
14 A. Never.
15 Q. How did this whole thing of doing the ad for
16 Conte come about? Did Victor call you up, or was it all
17 through Greg?
18 A. Greg. Greg asked me that -- asked that Victor
19 wanted to know if I would do an ad for this ZMA stuff.
20 And I said, sure, you know, he's giving me the stuff
21 free, who cares?
22 Q. Other than that ad, did you ever give any money
23 to Victor Conte?
24 A. I have never given money to Victor Conte,
25 period, ever.

1 Q. Yeah, that was a dumb question. Other than
2 that ad, whether it be money or anything else, any
3 benefit, anything -- compensation of any kind to Victor
4 Conte?
5 A. No.

[...]

22 Q. Okay. So, first of all, Mr. Bonds, I guess I
23 want to recheck with you or ask you again exactly when
24 you started getting the -- what I'll call the recovery
25 items, what you understood to be flax seed oil and the

1 cream, when you started getting that from Greg Anderson.
2 I think that you said -- but please correct me if I'm
3 wrong -- that you thought it was prior to this current
4 baseball season.
5 But let me ask, I mean, is it possible it's
6 actually a year before, after the 2000 -- well, actually
7 two years before, after the 2001 season?

[...]

11 Were you getting items during that period of
12 time from Greg?
13 A. No. Like I said, I don't recall having
14 anything like this at all during that time of year. It
15 was toward the end of 2000, after the World Series, you
16 know, when my father was going through his cancer.

[...]

[...]

12 Were you obtaining testosterone from
13 Mr. Anderson during this period of time?
14 A. Not at all.
15 Q. And were you obtaining growth hormone from
16 Mr. Anderson?
17 A. Not at all.
18 Q. In December 2001.
19 And what about the -- the clear -- either the
20 clear or the cream, were you getting either of those
21 substances in December 2001 from Mr. Anderson?
22 A. No. Like I said, I recall it being toward the
23 end of 2002 -- 2002, after 2002 season.
24 Q. Okay.
25 A. And that's what I recall.

[...]

13 Q. Well, January 2002, earlier that -- in January
14 2002, you would take your family to Aspen. Did you go
15 to Aspen that year?
16 A. Not in January. We'd go to Aspen in -- just
17 before Christmas.
18 BY MR. NADEL:
19 Q. Did you go to Aspen over the Christmas holidays
20 of -- the Christmas 2001 spilling over into the New
21 Year's --

22 A. We have a home in Aspen.
23 Q. Okay. My question is, did you go there over
24 the Christmas 2001 holidays, spilling over to the first
25 of the year in 2002?

1 A. I can't recall. Normally, my kids have to be
2 back to school by the 2nd of January, so we have to
3 leave to go back to get our kids back in school.
4 Q. But over that holiday season, regardless of
5 the --
6 A. We were gone for the Christmas, but I don't
7 believe we were in -- we were not in Aspen on this
8 January at all. My kids have school. We take the kids
9 to go to school.
10 BY MR. NEDROW:

[...]

15 Q. Did you ever get any pills that Mr. Anderson
16 described as testosterone pills or fast-acting steroid
17 pills that he called beans? Did you ever get anything
18 like that from him?
19 A. No, not that I know of. I mean, he gave me a
20 package of pills.
21 Q. Did he ever give you one he called beans?
22 A. I didn't ask him what was in the packages.
23 Q. Okay.
24 A. So, I could be wrong. There could be that in
25 the packages. I don't know what beans are. I'm just

1 sitting here saying is that the packages already came
2 packaged. And I had, like, ten or 12 pills in there.
3 Q. Okay.
4 A. So, for this particular item you're talking
5 about, beans, if it's a pill, I could have taken that
6 pill, but I wouldn't know that it was, because I didn't
7 ask Greg what all the pills' names were.
[...]
9 Again, you said this
10 before, but you don't recall getting Clomid or anything
11 like that from him?
12 A. I never heard of it.
[...]
25 Q. In January 2002, then, again, just to be clear,

1 you weren't getting any testosterone or growth hormone
2 from Mr. Anderson during that period of time?
3 A. No.
4 Q. And you weren't getting this flax seed oil
5 stuff during that period of time?
6 A. Not that I can recall. Like I say, I could be
7 wrong. But I'm -- I'm -- going from my recollection it
8 was, like, in the 2002 time and 2003 season.
[...]

[...]

9 Q. And let me again make sure I understand that
10 right, which is he gave it to you in person and you
11 pretty much used it instantly, right at that time, you
12 never carried it home?
13 A. At that time at the ballpark, at that time.
14 Q. And you used all the quantity up he gave you at
15 that time?
16 A. No, it was like a little spoon.
17 Q. Okay.
18 A. Like really little tiny, tiny spoon and he
19 would take it like a little scoop of it and he'd take it
20 off and just go like this (indicating).
21 Q. I see, he'd put it on you?
22 A. He'd put it on me himself.
23 Q. And you're talking about the cream
24 specifically?
25 A. Yeah, and he'd give me the -- this stuff and

1 he'd just say: "Take it."
2 Q. And the "this stuff" you're talking about would
3 be the flax seed oil?
4 A. The flax seed oil.

[...]

[...]

105

[...]

2 BY MR. NEDROW:

[...]

19 In April 2003 during this period of time you
20 were getting the flax seed oil and the cream, as you
21 testified previously, is that correct, from
22 Mr. Anderson?
23 A. Yes.

[...]

106

[...]

107

[...]

5 Well, and actually let me ask, did you
6 ever have a prescription or a doctor's authorization to
7 take testosterone or steroids for any medical reason?
8 A. No. Besides cortisone has steroids in it.
9 Q. Right, cortisone, right.
10 A. I mean, I've taken forms of steroids in the
11 process of -- from, you know, aches and pains or healing
12 or after surgery and stuff. Cortisone has steroids in
13 it. There's a lot of drugs out there that have steroids
14 in it that we do use.

15 Q. Sure. And that's a fair point.

16 But I guess, specifically, depotestosterone or

17 an injectable form of testosterone, was that something a

18 doctor ever authorized you to take?

19 A. No.

[...]

108

[...]

109

[...]

110

[...]

2 BY MR. NEDROW:

3 Q. Did he ever tell you that he was going to start

4 calling the clear "flax seed oil" in case anybody ever

5 asked what that was?

6 A. No. That's what he called it.

[...]

111

[...]

112

[...]

113

[...]

114

[...]

18 Q. Did Mr. Anderson routinely put your samples in
19 his name to avoid having your name linked with the
20 samples? Do you know about that?
21 A. No, I have no -- no. I wouldn't think he would
22 do something that dumb.
23 Q. Did you ever tell him do to do that because you
24 had concerns about confidentiality or celebrity or
25 things like that?

115

1 A. No. I wasn't concerned about that.
2 BY MR. NADEL:
3 Q. Did he ever tell you that he had done that?
4 A. No. He just came to get the samples and went.
5 MR. NEDROW: Okay.
6 BY MR. NADEL:
7 Q. Has anyone ever told you that there was a
8 sample that was mislabeled that related to you or
9 Mr. Anderson?
10 A. No.
11 BY MR. NEDROW:

12 Q. Okay. And actually --
13 A. I mean, wouldn't you have to sign for these
14 things? Isn't it illegal? Wouldn't you have to sign
15 for it?
16 Q. Let me go to the next --
17 A. Do you know what I'm saying?
18 Q. Not clear, not clear.

[...]

116

[...]

117

[...]

14 Q. So, on this document, Mr. Bonds, let's go to
15 the bottom. Let me start by asking, on this one, this
16 is your signature at the bottom of this page; correct?
17 A. Yes.
18 Q. Do you recall what this document relates to?
19 A. This document relates to a baseball-related
20 sample that -- I believe.
21 Q. Okay. Now --
22 A. It's supposed to be anonymous. It's supposed
23 to be private, for baseball only. And this is one of my
24 filled-out sheets from Major League Baseball.
25 Q. Did you share those documents either with

118

1 Mr. Anderson or Mr. Conte -- in other words, did
2 Mr. Anderson or Mr. Conte help you forward samples to
3 Major League Baseball? I mean, would they have reason
4 to possess this document?
5 A. I don't know -- I don't know -- I may have
6 given it to Greg. Because when I took the sample --
7 when I took the test I wanted to make sure, like I said
8 earlier, because I don't trust baseball, to make sure
9 that they don't come back to me and try to say: "X, Y,
10 Z," that I protect myself.
11 Like I said, I was born in this game. And this
12 is a business. And they can have doctors say whatever
13 they want them to say. And I protect myself if they
14 want us to do anything. All us players do that.
15 Q. Okay.
16 A. So, Greg may have had this in his hand and gave
17 it to them. But this is a Major League Baseball sample
18 thing I took for baseball.
19 Q. And this specimen was sent by Fed Ex, then,
20 according to what you testified to.
21 Now, I'll call your attention to specimen
22 bottles released to you in a Fed Ex box checked there on
23 the right side.
24 This was Fed Ex'd to Major League Baseball;
25 correct?

1 A. Yeah, we didn't do all that we stuff. We just
2 signed it, you know. They had the guy, we had to pee,
3 he stared over us, he did all the checking and
4 everything else, and all he said was: "Sign your name."
5 Q. Okay.
6 A. And that's all we did, signed our name and
7 moved on. Print your name, sign your name, move on.

[...]

120

[...]

4 Q. By the way, do you know Jim Valente?
5 A. I know he works at BALCO. I thought his name
6 was John. But it's Jim.
7 Q. What does he do at BALCO, do you know?
8 A. I have no idea. I don't know. I don't know
9 what his job description is.

[...]

121

[...]

122

[...]

24 BY MR. NEDROW:

25 Q. In January 2001 were you taking either the flax

1 seed oil or the cream?

2 A. No.

3 Q. And were you taking any other steroids?

4 A. No.

5 MR. NEDROW: All right.

6 Thanks, Mr. Bonds.

7 BY MR. NADEL:

8 Q. Mr. Bonds, just to shift subjects just for a

9 moment. I'd like to go back a little -- little ways ago

10 when Mr. Nedrow was asking you about your -- your

11 contacts with Mr. Anderson.

12 A. Mm-hmm.

13 Q. Maybe -- I don't know -- about a half an hour

14 ago.

15 And you said something to the effect of -- I

16 don't remember the exact language, but to the effect of

17 that with regard to the subject matter of steroids,

18 testosterone, you know, this matter, that you didn't

19 want to get involved with any of that with Mr. Anderson

20 so you wouldn't discuss anything about that.

21 Do you remember something to that effect?

22 A. I said we didn't discuss each others' personal

23 lives. I mean, we're friends. That's how -- I mean,

24 you have friends. Do discuss their person lives all the
25 time? No. I mean, we were friends, we grew up

1 together. I mean, he works in a gym. I could suspect
2 what goes on in a gym.
3 I don't work out -- I don't work out in the
4 richie gym where everybody is rich. I work out --
5 Q. Let me -- let me focus --
6 A. Can I finish?
7 Q. Let me just focus the question a little bit.
8 I'm not asking you about --
9 A. But can I finish?
10 Q. Yes, go ahead.
11 A. I work in a dungeon gym. You know, my thinking
12 of what they may be doing is their own business. I
13 don't get involved into their business. That's what I'm
14 saying. So, it never became a conversation. Because,
15 you know, you see a body builder in a gym, how many body
16 builders going to tell you: "No, this is all natural."
17 You know, they don't talk about it. Whatever, you know,
18 you're only lifting weights.
19 Q. Focusing not on the rest of your personal life
20 but the question of the subject matter of steroids,
21 testosterone levels, et cetera, that's a matter that you
22 indicated before that you wouldn't want to talk with
23 Mr. Anderson about because you didn't talk about this
24 type of thing with him; is that right?
25 A. Like I said, we didn't talk about each others'

1 job.
2 Q. And you wouldn't talk about issues relating to
3 steroids with him, would you?
4 A. Like I said, I mean, if you want to talk about
5 me, the players probably talk about it more than
6 anybody. You know, your normal friends, everyday
7 people, I mean, you bring it up in a conversation. If
8 you're talking about pushed on me or saying "You
9 should," no.
10 Q. My question goes back --
11 A. Conversations, possibly, yes.
12 Q. My question goes back to you and Mr. Anderson,
13 not other players, not other people. Just conversations
14 and contacts between yourself and Mr. Anderson.
15 When Mr. Nedrow asked you a while ago about
16 that subject matter in relation to this investigation,
17 you said: "We didn't talk about any of that stuff,"
18 basically, relating to this investigation, steroids, or
19 whatever?
20 A. Right.
21 Q. Mr. Anderson and you would not talk about that.
22 You didn't want to talk about that.
23 Is that right?
24 A. I don't want to know anything. That's exactly
25 right.

1 Q. And basically you said, in effect, you didn't
2 want to get involved in any of that in relation to
3 Mr. Anderson?
4 A. Exactly, toward this whole situation.
5 Q. And similarly, you wouldn't want and didn't
6 want to get involved or talk about -- specifically,
7 about Mr. Anderson's problems in relation to this
8 investigation?
9 A. I don't know his problems.
10 Q. Okay. And you didn't want to know; right?
11 A. I don't want to know.
12 Q. And you didn't want to talk about it with him?
13 A. I don't want to talk about it with him.
14 Q. And you know -- well, have you talked about it
15 with Mr. Anderson since the subject of this
16 investigation of BALCO has become public and in the
17 media?
18 A. Besides what's it like getting your door broke
19 down or, you know, stupid things: "How's your
20 girlfriend?" You know: "She must be devastated they
21 broke down her door." You know, things of that matter,
22 that's what we discuss. But the personal issues of
23 this, no.
24 Q. And you know that Mr. Anderson has an attorney
25 representing him, don't you?

A. Mm-hmm -- yes.
Q. And what's his attorney's name?
A. I don't know his name.
Q. You don't know his name?
A. I'm not really good with names. I'm sorry.
Q. Do you know --
A. I meet a lot of people every day. And I'm not really good with names, so --
Q. You don't know his lawyer?
A. I know his lawyer.
Q. You just don't remember his name?
A. I just don't remember his name.
Q. Okay.
A. I know the building that he's at.
Q. Have you had conversations or meetings with Mr. Anderson and his lawyer about this investigation?
A. No.
Q. You're sure of that?
A. I'm sure of that.
Q. Is there any reason why you and Mr. Anderson, together, would have visited his lawyer's law office after this investigation became public?
A. Because my lawyer's across the bridge, so he comes this way and he allows us to use his conference room.

1 Q. Okay. Did you -- after this investigation
2 became public, when you became aware that there was a
3 matter linked to BALCO, did you, Mr. Anderson, and
4 Mr. Anderson's lawyer meeting at his law office and
5 discuss this investigation?
6 A. No, not at all.
7 Q. Never happened?
8 A. No. Not at all.
9 Q. And how many times have you visited -- since
10 you became aware that there was an investigation, how
11 many times have you been to Mr. Anderson's lawyer's
12 office?
13 A. You'd have to ask Mike, my attorney.
14 Q. To your recollection, how many times have you
15 been there?
16 A. Maybe four -- four times, maybe. I've been
17 there twice the last two days. And maybe two other
18 times or -- two other times prior to that.
19 Q. Putting aside the last two days, two times
20 before that?
21 A. Two or three, at the most.
22 Q. Approximately when?
23 A. Oh, I can't recall. It's all during this whole
24 time.
25 Q. Months ago, weeks ago?

A. Weeks.

Q. Okay. The first time that you and Mr. Anderson went to his lawyer's office --

A. Me and Anderson has never gone to his lawyer's office, ever.

Q. You and Mr. Anderson have never been to his lawyer's office together?

A. I have never gone with Greg Anderson with him to his lawyer's office, no.

Q. Have you met him at his lawyer's office?

A. No. I have met his lawyer, though. But I have not met Greg there or him with his lawyer at all.

Q. Have you ever been at his lawyer's law office with Mr. Anderson?

A. I have only been at Greg's lawyer's office with my attorney. They talk. I'm never allowed in the room with them. They go off. I don't -- they don't -- won't talk about the thing, what they know. That's their business.

Q. Okay. Just one more question, just to make sure, although it's pretty -- I think it's pretty clear what you're saying, but I just want to make sure I understand it.

You have never met with Mr. Anderson, yourself, and his lawyer at his lawyer's law office?

A. No, never.

Q. And with regard to your -- a previous interview that you had with agents of the FBI, do you recall having been interviewed back in July of this year?

A. Yeah. I went to him over an extortion case and theft.

Q. A separate matter than this?

A. Way separate than this, yes.

Q. And you were interviewed by agents of the FBI and also in the presence of an assistant United States attorney.

Do you recall that?

A. I was not interviewed. I was going to them over a problem of theft, fraud, forgery, and seeing what I can do to get it back, or, you know.

Q. And you had a lengthy conversation with them?

A. Not long. I don't -- I don't recall most of that conversation because I don't deal with it anymore.

Q. And that was with a different lawyer who was representing you in connection with that matter; is that right?

A. Yes.

Q. And during that interview, at some point in that interview, did the subject matter come up of allegations that somebody else might make against you?

1 A. They brought that up because they work both
2 sides of the fence. That's how you guys work.
3 Q. And in connection with allegations -- and the
4 person -- who was the person involved that there was a
5 discussion about, somebody who might be accusing you of
6 various things?
7 A. The person that I was going after was a close
8 friend of mine named Steve Hoskins that our families --
9 his father played professional football, was friends
10 with my father. His dad passed away, and now my
11 father's passed away.
12 Q. Okay. And during --
13 A. We worked together. And he stole my property,
14 forged my name on some things, sold it.
15 Q. And to your knowledge that's a matter that is
16 presently being investigated by the FBI?
17 A. I don't want any kid to ever be disappointed
18 that they got something of mine that may not be true.
19 So, I told them to go in the water somewhere. Because
20 it's not even worth it.
21 Q. And during that conversation or interview, did
22 the subject matter come up about what Mr. Hoskins, the
23 individual that you mentioned, what he might say about
24 you?
25 A. No, I don't recall any of that.

1 Q. Did -- were you asked during that interview, do
2 you recall having been asked, whether you had ever taken
3 steroids?
4 A. I don't recall that conversation coming up.
5 Q. Okay. In fact, you said you had never ever
6 taken steroids; is that right?
7 A. I -- I -- I -- I don't know what I talked to
8 them about. But I don't believe that was any of the
9 conversation.
10 Q. To your knowledge, that was never mentioned in
11 the conversation at all?
12 A. Not that I know of.
13 Q. Now, had you said during that conversation that
14 you -- or had you denied ever taking steroids, now, with
15 what you've seen today, do you feel comfortable as you
16 sit here today saying that you have never taken
17 steroids?
18 A. I feel very comfortable, very comfortable.
19 MR. NEDROW: I think that Mr. Nadel and I have
20 concluded our factual questions for Mr. Bonds.
21 So, before we let Mr. Bonds go, does anyone
22 have any factual questions for Mr. Bonds in the grand
23 jury regarding the factual matters discussed before we
24 let him go?
25 Yes, sir.

1 GRAND JUROR: Did you ever get Mr. Anderson a
2 Christmas bonus or anything like that?
3 THE WITNESS: Yes, I did. I gave all my -- all
4 my friends a Christmas bonus. Not a Christmas bonus. I
5 gave them a bonus after I hit 73 home runs because I
6 couldn't believe it, and I was so excited. Even my
7 publicist, my strength coach, my stretching coach. I
8 met my bonus when I did that. So, I met my bonus and
9 gave a bonus to everyone else.
10 GRAND JUROR: And how much did you give
11 Mr. Anderson?
12 THE WITNESS: 20,000. I gave everyone $20,000.
13 GRAND JUROR: That was besides the 15,000?
14 THE WITNESS: Yes.
15 GRAND JUROR: Was that in cash, too?
16 THE WITNESS: I believe so, yes.
17 GRAND JUROR: Thank you.
18 MR. NEDROW: And actually, thank you. A
19 follow-up question I had forgotten.
20 BY MR. NEDROW:
21 Q. You also after the Giants went to the World
22 Series last year after the 2002 season gave Mr. Anderson
23 a World Series ring; isn't that correct?
24 A. I gave everyone, even everyone in my family, a
25 World Series ring. I bought them. You can purchase

1 them.
2 Q. Oh, I see.
3 A. So, from the team you can purchase them.
4 I also got Greg Anderson a 73 home run ring,
5 because that's what he wanted. Okay?
6 But a friend of mine in New York makes these
7 things. And he makes them all for me. So, if I have
8 him do a big award, a friend of mine in New York will
9 just make one for me and give it to me as a gift. Greg
10 saw it, he liked it, he wanted it. Fine. He wouldn't
11 charge me for training and stuff. And I'm, like, 15 --
12 I mean, he wants it. This is the least I can do. It's
13 a $3,000 ring. He wants it, what he do, here, fine.
14 MR. NEDROW: Okay. Other factual questions,
15 yes.
16 GRAND JUROR: Greg Anderson -- would you
17 consider him an employ that works for you.
18 THE WITNESS: No. I consider him as a friend.
19 GRAND JUROR: That you pay him $15,000, is that
20 like a tax write-off for you when you do your taxes?
21 THE WITNESS: No, you can't write off that.
22 GRAND JUROR: $15,000, you can't write that
23 off?
24 THE WITNESS: It's a luxury to have a trainer.
25 It's not a tax deduction.

1 I did that for him so his kid could go to same
2 school. My daughter goes to a very expensive Montessori
3 school, and his son's over there too. And he has an
4 ex-girlfriend that won't let him see his kid, and I
5 don't want, you know, no problems. "Here, let me give
6 you something keep her off your back."
7 So, that's basically in exchange for the
8 workouts. You know, we're friends, so you, know you,
9 just give and get. That's just how it works.
10 BY MR. NADEL:
11 Q. So, you consider that a gift, really?
12 A. Pretty much, yeah: "Here's a gift, do what you
13 want to do with it." You know, I didn't ask any
14 questions.
15 Q. Just to follow-up on the grand juror's
16 question, is that -- if you're giving gifts of $15,000
17 or $20,000 a year to individuals, is that something that
18 you declare on your tax returns as a gift?
19 A. I didn't declare it on my tax returns at all,
20 no. Because they didn't want to have to pay tax on it.
21 I'm thinking: "Fifteen grand, whoop-de-doo. You know,
22 slap me on the hands, and I'll pay my taxes on it."
23 MR. NEDROW: Yes, another question.
24 GRAND JUROR: You've received a lot of training
25 from a lot of different coaches.

1 THE WITNESS: Mm-hmm.
2 GRAND JUROR: Is there anyone else that gives
3 you vitamins or nutritional supplements and things?
4 THE WITNESS: Harvey Shields (phonetic), who is
5 50 years old and is one of my trainers. This man will
6 run you into the ground. And he always -- his -- his
7 are always like the cream stuff. He comes up with some
8 new cream gimmick all the time. He hasn't lately.
9 Raymond is -- he's kind of like a little shark.
10 He kind of like wants to do car shows for you or things
11 like that to make other money. But I kind of stay away
12 from him on that.
13 But those are my three guys with me on a
14 regular basis. And that's pretty much it.
15 BY MR. NEDROW:
16 Q. Just for the record, Raymond, first name, last
17 name?
18 A. Raymond Farris.
19 Q. Can you spell his last name?
20 A. It's F-a-r-r-i-s.
21 Q. Thank you.
22 BY MR. NADEL:
23 Q. How many -- how many people a year would you
24 say, first with regard to the $15,000-type gifts, that
25 you make gifts to, besides Mr. Anderson?

1 A. I only made a gift once -- and that was after I
2 hit 73 home runs -- to everyone. That's the only time
3 I've ever given a gift. To me, that was a bonus gift
4 for everyone. My publicist girls for, you know, making
5 me get to the press conferences when I needed to get
6 there. You know, Harvey for his --
7 Q. You're talking about the $20,000 gift there?
8 A. Yeah, I gave each of them 20,000.
9 Q. How many people total, would you say?
10 A. Four.
11 Q. Putting aside the $20,000 gifts, the thing with
12 Mr. Anderson, $15,000 a year, how many people each year
13 are there that, as a gift, you give them money, kind of
14 in exchange for whatever favors they've done for you,
15 things like --
16 A. Besides my family, who I give a lot of gifts
17 to?
18 Q. Yes, other than your immediate family.
19 A. Probably -- there are some people who wash my
20 car that I'll give them money, things like that.
21 Q. I'm talking about the things like $15,000 I
22 year.
23 A. Oh, no, no, no, no. I ain't giving nobody --
24 Q. Just Mr. Anderson?
25 A. No. I pay Harvey $15,000, too, for my

1 stretching. I pay Raymond $10,000.
2 Q. It's Raymond, Harvey, Mr. Anderson. Others?
3 A. No. Those are my three trainers.
4 Q. How long have you been doing that for?
5 A. Since 2000. So, he's probably made, what,
6 $45,000 with me in three years, plus 20.
7 Q. And that's what you would include in your
8 characterization of gifts?
9 A. No. That was for their training. To me, it
10 was -- to me, they wouldn't want -- they didn't want to
11 charge me. And I didn't feel it was right. Greg's
12 there every day. Harvey's at the game, ballpark, every
13 day. I just didn't feel it was right.
14 Q. I understand.
15 A. You know, so: "Let me at least give you
16 something, you know, for your training," but it was for
17 training.
18 Q. I just want to make sure I understand what
19 you're saying.
20 A. The gift was the 20,000.
21 Q. Okay. The $15,000. Earlier, in response to
22 one of grand jurors' questions, you mentioned that you
23 did not consider those individuals employees, that you
24 considered that a gift. And so I'm just curious as to
25 whether that's a gift, or if it's a payment for work

1 that they have done, or what?
2 A. Well, Greg Anderson I grew up with. He's my
3 childhood friend. So, when I said as a gift, I'm
4 meaning it because he's my friend. But I'm paying him
5 for his work. Harvey I am paying as an employee for his
6 work and Raymond.
7 I just meant Greg. You know, Greg is my
8 friend. And so it was more of a -- you know what I
9 mean? Friend, but I'm paying you. However you want to
10 call it.
11 GRAND JUROR: I have a question.
12 You said that Greg is with you every day.
13 THE WITNESS: Mm-hmm.
14 GRAND JUROR: Does he have other people that he
15 is employed by?
16 THE WITNESS: He works out of World's Gym. He
17 has a lot of clients.
18 GRAND JUROR: So, he has a lot --
19 THE WITNESS: He has a lot of clients, a lot of
20 high school kids and college kids and elderly people,
21 but he has a lot of clients at that gym.
22 GRAND JUROR: Any other athletes that you know
23 of?
24 THE WITNESS: No, none, besides college, I
25 believe, or high school.

1 GRAND JUROR: All right. This is about the
2 ballpark.
3 THE WITNESS: Mm-hmm.
4 GRAND JUROR: About the clear and the cream.
5 When you were taking the clear at the ballpark in the
6 locker room, you said there were a lot of people around,
7 probably other ball players on the team, photographers
8 or news?
9 THE WITNESS: Mm-hmm.
10 GRAND JUROR: When they were all watching you
11 take this -- this so-called flax, did any of them say:
12 "Hey, how's that taste?" Or: "Where can I get that,
13 Barry?" Anything like that?
14 THE WITNESS: No one was watching me, no one's
15 sitting there going like this (indicating): "What is he
16 doing?" You know what I mean? But everyone's around
17 when Greg was giving it to me.
18 But no one bothers each other before a game.
19 You know, in the locker room before a game, you don't
20 really bother the other person. People are watching
21 films. You may talk about something.
22 But you understand, I'm an 18-year veteran.
23 It's tough for some young kid to walk all the way over
24 here and say: "Hey, Barry, what are you doing?" He's
25 just not going to do that. It's just not going to

1 happen like that. You know what I mean? He may ask me
2 if I can help him to hit or help him to do something,
3 but they wouldn't personally come out and ask me
4 anything like that. It's a respect thing from veterans
5 to younger players kind of.
6 GRAND JUROR: That couple drops that you did
7 take out of the vial, you say you took it during the
8 home stand?
9 THE WITNESS: Mm-hmm.
10 GRAND JUROR: Does that mean, like, once every
11 three games or four games or was it every game during
12 the home season?
13 THE WITNESS: No, it would be like once every
14 home stand or maybe twice. It wasn't on an everyday
15 regimen. He didn't give it to me every day when I was
16 at home. So, we played a seven-game -- seven-day home
17 stand, maybe that would be once. If we were home for
18 two weeks, maybe two or three times, maybe.
19 But it wasn't on an everyday regimen. It
20 wasn't something that he did every day.
21 But I wouldn't -- I wouldn't do everything on
22 an everyday basis. That's just not me. That's not my
23 style. I may get to the ballpark late. I got to go to
24 work. I don't have time for rubdown, massage. I play
25 with the pain and just go.

1 GRAND JUROR: Have you ever given a gift or
2 payment to Victor Conte or BALCO Labs?
3 THE WITNESS: No. I've never paid Victor Conte
4 a penny ever in my life.
5 MR. NEDROW: Other questions?
6 Go ahead.
7 GRAND JUROR: On this specimen that was taken
8 by the baseball, do you know who the collector was?
9 MR. NEDROW: Let's make sure we have the right
10 page. That's the --
11 GRAND JUROR: It's the second-to-the-last page,
12 coded test.
13 MR. NEDROW: Second-to-the-last page, right.
14 GRAND JUROR: The collector's name has been
15 blacked out.
16 THE WITNESS: I don't know.
17 GRAND JUROR: You signed this saying that you
18 sealed it and put your initials on it.
19 THE WITNESS: Uh-huh.
20 GRAND JUROR: Do you remember them dipping
21 anything into that urine specimen cup?
22 THE WITNESS: Yeah, like a little color chart
23 thing or something.
24 GRAND JUROR: Was it Greg Anderson that did
25 that or was it a doctor?

1 THE WITNESS: No, it's a doctor from the team.
2 They come and tap you on the shoulder as soon as you
3 walk in the door. And then you have to go in the back,
4 the guy stands in the bathroom with you, watches you go
5 in, go to the bathroom, you have to hold the cup in your
6 hand, you got to dip the thing in, and he does all the
7 fill out charts, he puts the thing on it, seals it up,
8 you have to sign it and give it to him.
9 GRAND JUROR: So, this was your copy, then?
10 THE WITNESS: That would have been my copy,
11 yes.
12 MR. NEDROW: Other questions?
13 Yes.
14 GRAND JUROR: Greg Anderson, when his house was
15 searched, did he talk to you about the search?
16 THE WITNESS: No.
17 I just asked him: "What's it like getting your
18 door blown down?" Greg right now is down, you know?
19 He's a great guy. He's a really nice person and a very
20 good guy, you know. You know, my brothers have a lot of
21 problems, too, and I just -- you know, you just don't
22 turn your back on somebody you've known for a long time.
23 And I just haven't turned my -- I -- I'm not turning my
24 back on him, you know?

[...]

[...]

10 MR. NEDROW: Actually, I think that's it for
11 Mr. Bonds.
12 I just want to clarify one thing, though.
13 BY MR. NEDROW:
14 Q. You've testified, Mr. Bonds, and I'm sure
15 there's a miscommunication on this, that you're with
16 Mr. Anderson every day, but I think you're also clear he
17 doesn't go with you on the road. So, let me just
18 clarify.
19 When you're home you see him pretty much every
20 day, when you're in the Bay Area?
21 A. Well, I have to clarify that. I don't see Greg
22 every day.
23 Q. How many days a week, on average?
24 A. During the season time, I'll see him every day,
25 he will be at the ballpark.

1 Q. When you're home?
2 A. When I'm home.
3 Q. He does not come on the road.
4 A. Right. But there will be some days I don't
5 feel like working out; I don't see him. But he will
6 still come to the ballpark. Greg enjoys baseball. He
7 makes that drive every day. He'll come to the ballpark,
8 sit at my locker to try to get me to go to the gym go
9 work out. I'll call him a couple of names I can't say
10 here. But he's the type of person who motivates me
11 because I don't want to look at him no more, so I'll go
12 in the gym and work out with him so I'll he go home.
13 You know, you need that in your life. You
14 know, that's why I have these people in my life, because
15 they're motivating me to take that next step that I
16 won't take the next step. And regardless of how many
17 names I call them, how many times I say: "You're fired,
18 I hate you," this and that, they're going stay there,
19 and they're going to irritate me. And Greg and Raymond
20 and Harvey are those three people that I needed in my
21 career.
22 MR. NEDROW: Okay. Good.
23 Further questions?
24 Or I think that's it for Mr. Bonds. Okay.
25 I'm sorry. One last question for Mr. Bonds.

1 Okay, great.
2 GRAND JUROR: The article in the magazine,
3 wouldn't you consider that like an endorsement on his
4 products?
5 MR. NEDROW: Right. I think actually Mr. Bonds
6 actually testified to that, but let's clarify that.
7 You're referring --
8 BY MR. NEDROW:
9 Q. I think the grand juror is referring to the
10 Muscle & Fitness magazine 2003 in which you appear with
11 a photo, actually, of Mr. Anderson and Mr. Conte, please
12 correct me if I'm wrong, and following up on the
13 question, that was an endorsement for, I guess, both
14 Mr. Anderson and Mr. Conte; correct?
15 A. It was more of an endorsement for BALCO, ZMA.
16 Like I said, they gave those protein shakes and
17 stuff to my father, you know, and my friends. And, you
18 know, no one -- they never charged us for anything. So,
19 it was a favor -- for a favor.
20 I didn't charge him for that thing. I didn't
21 get paid for that or nothing. It was just, you know:
22 "Thank you for --" you know.
23 GRAND JUROR: I would think the free publicity
24 for, you know, just being seen in a picture is payment
25 enough for BALCO, you know?

1 THE WITNESS: Well, basically. That -- that's
2 true.
3 But I never -- BALCO never charged me for
4 anything. They never asked me for a penny, nor did I
5 ever pay them anything. And it was you know, it was the
6 least they could do. When my dad was sick, they sent up
7 protein shakes for my father. I didn't -- you know,
8 that was the least I could do. Some things are worth
9 more than money. I thought they were doing something in
10 kindness for my family. And to me that's priceless.
11 MR. NEDROW: Okay. All right. You're excused,
12 Mr. Bonds. Thank you very much. You're free to go.
13 THE WITNESS: Thank you.
14
15
16 (The proceedings were concluded at 4:16
17 p.m.)
18
19
20
21
22
23
24
25