IN THE UNITED STATES DISTRICT COURT

DISTRICT OF KANSAS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	District Court
	)	Case No. 04-40141-MLB
vs.	)	Circuit Court
	)	Case No. 06-3125
ARLAN DEAN KAUFMAN and	)	Volume X of X Jury Trial
LINDA JOYCE KAUFMAN,	)	
	)	
Defendant,	)	
	)	

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TRANSCRIPT OF JURY TRIAL

On the 4th day of October, 2005, came on to be heard Jury Trial in the above-entitled and numbered cause before the HONORABLE MONTI L. BELOT, Judge of the United States District Court for the District of Kansas, Sitting in Wichita.

APPEARANCES

The Plaintiff appeared by and through Ms. Tanya Treadway, Ms. Lisa Krigsten and Ms. Kristy Parker:

The Defendant Arlan Kaufman appeared by and through Mr. Thomas Haney;

The Defendant Linda Kaufman appeared by and through Mr. Steve Joseph.

I N D E X - Volume X

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(Beginning at 9:04 a.m. November 3, 2005, the following proceedings continued.)

THE COURT: Good morning everyone. Do you all have your books? Well, as you can see, we're getting fairly close to the end. Were you able to get your kids last night Ms. Sponsel?

A Yes, I was.

THE COURT: All right. We're going to start with instruction 25. This is the aiding and abetting instruction.

(Judge Belot continues to read instructions to the jury.)

THE COURT: Now, that concludes the instructions. I want you to turn now -- you will see that there are three verdict forms. The first verdict form concerns both Defendants and concerns only Count 1, the conspiracy count. You'll remember that I told you that with the -- that this is the exception to the rule that you must consider the charges against the Defendants separately. And so this verdict form which concerns only conspiracy deals with both Defendants. And I hope that the instructions which are contained in the verdict form with regard to how to fill it out are clear to you. We've worked hard to make sure that's the case. So you must answer the verdict on the first page guilty or not guilty. And then, as you will see from the instructions, if your verdict is guilty -- and I'm certainly not suggesting

that it should be, but if it is, then you must go ahead and answer the remaining questions on this verdict form. And those questions appear on Pages 2 and 3, 2 and 3 of the verdict form. I'll tell you, I think something has been -- no, I'm sorry, it has not been. So there will be some special questions for you to answer on this verdict form in the event of a guilty verdict.

Now, the second -- the other two verdict forms are identical except that the first one pertains to Arlan Kaufman and the second pertains to Linda Kaufman. And these verdict forms cover the remaining counts of the indictment, Counts 2 through 33, exempting the two that are no longer in the case. And, again, I hope that the instructions are clear with respect to how you're to use these verdict forms, what you're required to do to answer the special questions that appear on the first page and the second page and the third page. The remaining pages just require verdicts of guilty or not guilty.

So, now, remember, there's only one official verdict form. In other words, I'm giving you each a verdict form because I think you'll need to be able to discuss the verdict forms, and each of you have a copy, but there's only one to be signed -- or there's three originals here and they all have to be signed. All right.

Now, Government have any additional requested instructions or any additional objection to the instructions

given?

MS. TREADWAY: Nothing further other than we've previously discussed, Judge.

THE COURT: Mr. Haney?

MR. HANEY: I'd respond likewise, Your Honor.

THE COURT: All right. Mr. Joseph?

MR. JOSEPH: Nothing in addition, Your Honor. Thank you.

THE COURT: All right. Now we're going to begin the closing arguments. You'll recall that the Government has a total of an hour and a half to present closing argument. Because the Government has the burden of proof, the Government's entitled to split its argument, open and close, but the Government can't take more time in the closing portion of its argument than it does in the opening portion. And then once the Government has concluded its opening portion, then it will be the Defendants' opportunity to make their closing argument. Probably what we'll do is, depending on how long the Government's opening portion takes, we may take a recess at that point in time. Then we'll turn to the Defendants' closing arguments and then we'll conclude. And at that point, it may not be -- I think, unless you object, I think probably we're going to go clear through the arguments and then send you out to deliberate and to have lunch rather than to split them up. But we'll see how that goes. And we're buying you

lunch today. Have you filled out your forms? All right. All right. We'll have the beginning portion of the Government's closing arguments. Do you want any kind of warning?

MS. PARKER: Yes, Judge. I'd like to take not more than 60 minutes, so if I could get a warning at 55 minutes, I would appreciate it.

THE COURT: All right.

MS. PARKER: Good morning. As you have heard for the past five weeks, this is a case about exploitation. During this trial you heard evidence about how Arlan and Linda Kaufman, two well-educated people, a clinical social worker and a nurse who were prominent citizens of Newton, Kansas, exploited a group of vulnerable human beings for over 20 years by forcing and coercing them to perform hard physical labor and vulgar sexual acts in the nude for their own personal benefit and entertainment. And you also heard about how those same two people exploited the Medicare program by claiming that they were providing their victims with legitimate therapy for their chronic mental illnesses.

The Government has told you that the evidence in this case proves that what the Defendants did for all of those years was part of a calculated scheme to overbear the will of a group of vulnerable citizens and force them to become the Defendants' personal supply of pornographic actors.

Defendant Arlan Kaufman tried to tell you, on the

other hand, that everything he did was part of a legitimate treatment program to help this group of psychotic adults stay out of the hospital or possibly even out of jail.

Defendant Linda Kaufman's counsel has tried to distance her completely from what happened inside the Kaufman House by suggesting that she was just an innocent bystander for all of it.

The ultimate questions you will be called upon to answer when you retire to deliberate are these: Was the pornographic activity you heard about from former Kaufman House residents and saw on videotape forced labor? And was the billing to Medicare for the activities on those tapes and the other so-called therapy at Kaufman House fraud?

Based on the evidence you have heard and seen during this trial and which I'm now going to summarize for you, the Government is confident that you are going to find that over the past 20 years and right up until the time they were arrested in October of 2004, the Defendants committed every crime listed in the indictment. As you listen to this argument, I ask you to remember that the Government has presented you with multiple witnesses, documents and videotapes for every legal proposition we are required to prove. Witnesses with no motive other than to tell the truth. Documents and videotapes that speak loudly for themselves. When I'm finished, I'm going to ask you to return the only

verdict that that evidence could possibly support, a verdict of guilty on every count.

As Judge Belot has told you, the indictment in this case has 31 counts. That's a lot. And for good reason. Those 31 counts reflect the vast extent of the criminal conduct the Defendants have engaged in as part of a scheme they set in motion over 20 years ago. But in spite of the sheer number of counts in the indictment, the charges are not complicated and they can be divided into three groups. First, the conspiracy count; then the forced labor and involuntary servitude counts; and, finally, the fraud and obstruction counts, which I will discuss with you in that order.

Count 1 of the indictment charges the Defendants with conspiracy. A conspiracy is simply an agreement between at least two people to commit a crime. The crime or crimes that are the object of the conspiracy don't need to be completed. The agreement itself is the criminal offense. All the Government has to prove is that two people knowingly made an agreement to do something illegal, as your instructions define, and that at least one of the members of the conspiracy did one act, what the law calls an overt act, to further the agreement. In this case the Government has charged Arlan and Linda Kaufman with agreeing to commit numerous crimes: Forced labor, involuntary servitude, Medicare fraud, mail fraud, and obstructing a federal audit. So long as the Defendants

knowingly agreed to commit even one of those crimes and one of them carried out an overt act listed on your verdict form, they are guilty of Count 1. And, Ladies and Gentlemen, the Defendants are most certainly guilty of Count 1.

During this trial the Government has proven a classic conspiracy built on good old fashioned teamwork. The evidence in this case was overwhelming and clear. Arlan and Linda Kaufman were a team when they ran the Kaufman House. And they were a team when they used the cover of a legitimate business to create a virtual house of horrors kept financially afloat by fraud. As in any efficient partnership, there was a division of labor. Arlan Kaufman provided the basis for the business by holding himself out as a legitimate clinical social worker who provided much needed housing and mental health services to severely mentally ill adults. It was his credentials that brought in the clients. But it was Linda Kaufman who sealed the deals. She lured the families into entrusting their children to Kaufman House with her seeming personal charm and the promise of nursing expertise that she would use to help the mentally ill adults to take their medicine and to get to doctors' appointments.

By all outward appearances, the Kaufmans were running a family business as wholesome as the midwestern town of Newton. But as we told you at the very beginning of this case, appearances can be deceiving because you now know that

Arlan and Linda Kaufman shared more than just a family business. Like many couples, Arlan and Linda Kaufman also shared a hobby. But in this case it wasn't going to the movies or singing in the church choir. The Kaufmans' hobby was feeding Arlan Kaufman's obsession with nudity. They took nude pictures together. They filmed themselves working in the nude at their Butler County farm. Arlan Kaufman videotaped the genitals of vacationers at a nudist colony without their knowledge. Arlan Kaufman even videotaped his own penis for nearly an hour. And, eventually, Arlan and Linda Kaufman hatched a plan to coerce the most vulnerable residents of Kaufman House to perform pornographic acts for them in the nude and to fund it by fraudulently billing Medicare and their patients' families.

Just look at all the work the Defendants did to get their so-called patients used to being nude. It took them years; but they bided their time. And, once again, they each had a vital role to play. They started by using a makeshift seclusion room at 7th Street as a vehicle for getting residents to be nude for days, weeks and even months at a time. Arlan gave the orders to put people in seclusion without clothing. Linda helped enforce the orders; locking and unlocking the room when necessary. And then the Kaufmans started supplementing the seclusion room by taking away the residents' clothing as punishment in the main part of the

house. Multiple residents who testified during this trial, Peter, Kevin, Nancy, Jonathan and Jerry, all told you about this. And you saw the documents to back it up. The documents Ms. Krigsten went over with the Defendant Arlan Kaufman yesterday that made it clear that one of Mary's and Barbara's consequences for bad behavior was losing their clothes. Then, after spending a few years making themselves the center of their clients' universe by acting as their landlord, therapist, nurse, and in Barbara's case, guardian, the Defendants used their clout to command the members of 7th Street to take off their clothes for what they told them was therapy for their supposed sexual dysfunctions diagnosed by Arlan Kaufman and to perform sexual acts on videotape. Of course, by Arlan Kaufman's definition, a sexual dysfunction could be liking sex too much or not liking it at all or not wanting to use a public restroom. Sometimes, as in Jonathan's case, Arlan Kaufman waived the sexuality requirement and prescribed nudity as a treatment for just plain old anxiety. Whatever it took to provide a straight-faced reason for Arlan and Linda Kaufman to get the residents together to masturbate in front of each other, have oral sex in front of each other, and touch each other's genitals. And you know that Arlan and Linda Kaufman were in this sex therapy scam together from the videotape that you saw yesterday, Defendants' Exhibit 170, in which you heard Arlan Kaufman say, as Linda sat at the head of

the table, that he and Linda had developed an experimental treatment program involving the residents displaying their genitalia on video monitors.

And look at the way the Defendants billed for their so-called therapy by not keeping records and by billing for services that Medicare obviously doesn't pay for. They were a team here, too. Arlan talked the therapy talk as he made those videotapes and also manufactured the therapy notes to send to Medicare while Linda prepared and sent the bills. And Linda kept the bank account stocked by endorsing and cashing the checks that came in. Of course, it makes sense that the Defendants wouldn't be keeping legitimate records now that even Defendant Arlan Kaufman has admitted that he wasn't doing legitimate therapy.

And look at the way the Defendants worked together to hide what was really going on at 321 West 7th Street from the outside world. They banded together to lie and to give misinformation to SRS, the Butler County Sheriff's Department, the Department of Health and Human Services, Blue Cross & Blue Shield, the Newton police, doctors; and most shamefully, the parents of their so-called patients. The parents like Florine, Leland, Lee, and Metta, who trusted them and who wanted so badly to believe that the Kaufmans were providing a good home for their children when no one else would.

The Kaufmans also worked together to make sure that

none of their mentally ill clients would spill the beans about the sexual activity in the house. Or at the very least, that no one would believe them if they did. You heard this from Kevin, Jonathan and Nancy who testified that both Arlan and Linda Kaufman drilled them and the others on how never to talk to the police, to their families, to SRS, or even to their own doctors about what went on in the therapy sessions at the house or out at the farm. You heard from residents and from doctors alike about how Linda Kaufman used her immense knowledge of psychiatric medicine to speak for the Kaufman House residents to their doctors. And you heard from a police officer and an SRS worker about how Linda arrogantly stood guard over her clients when they tried to interview them, interrupting clients and clarifying their remarks to make sure that no one learned the truth about the pornographic activities that were taking place inside Kaufman House. All of this proves that the Defendants had an agreement.

There is also no doubt that Arlan and Linda Kaufman both did multiple overt acts on or after December 30th of 1999, including filming genital shaving and group massage, as depicted in Exhibit 108; and sending bills to Medicare and to their clients' families. And the Government has certainly proven beyond any doubt that the Defendants agreed to commit the multiple crimes charged in the indictment, which I will now discuss in turn.

Counts 2 through 6 of the indictment charge Arlan and Linda Kaufman with aiding and abetting each other in violating the laws that prohibit involuntary servitude, or in other words, that prohibit anyone from being forced to labor for or serve another person against their will. Now, as you know, the Defendants committed their crimes over two decades. During that period, Congress updated the laws that prohibit forced labor so there are actually two statutes that apply to similar conduct in this case. The first one is 18 U.S.C. 1589, which applies to everything that happened from October 28th, 2000, until the Defendants were arrested on October 26 of 2004. The second statute is 18 U.S.C. 1584, which applies to everything that happened within the statute of limitations period noted in your instructions through October the 27th of 2000. As you have just heard from the Judge -- or actually yesterday -- the two statutes have slightly different elements. But make no mistake about it, there is no doubt, much less a reasonable doubt, that the Defendants violated both.

Count 2 of the indictment charges the Defendants with aiding and abetting each other in committing the crime of forced labor against former Kaufman House resident Mary H. Count 3 of the indictment charges the Defendants with aiding and abetting each other and committing the crime of forced labor against former Kaufman House resident Barbara. Now,

forced labor simply means getting someone to work or to provide services by using any one of three prohibited means. In order to prove that the Defendants committed the crime of forced labor, the Government must establish the following elements beyond a reasonable doubt. Now, as you can see, the first element that the Government must prove is that the Defendants obtained the labor and services of Mary and Barbara. As your jury instructions tell you, labor means the expenditure of mental or physical effort. Working in any kind of conventional job is labor. Working on your house or on your car is labor. Services means conduct that assists or benefits someone else. Preparing tax forms or giving financial advice are examples of service. In this case, Mary and Barbara provided labor and services to the Defendants by performing nude sexually explicit acts for them during so-called therapy sessions and for the creation of the Defendants' collection of videotapes, the ones that the federal agents found in their bedroom. In effect, Mary and Barbara were undercompensated actors in a never-ending pornographic show. And as Arlan Kaufman told you himself, he was the cameraman.

Now, you know from sitting through five weeks of this trial that the Defendants are going to tell you that the nude sexual acts that Mary and Barbara performed over and over for years on end are not labor. Although after Defendant

Arlan Kaufman's testimony, it's not clear what else Defendant Arlan Kaufman might call it. First he said on direct examination that he permitted Mary and Barbara and other residents of Kaufman House to perform voluntarily, of course, sexually explicit acts in group as some sort of family therapy for sexual acting out that he claims they were involved in. Then, on cross-examination, he agreed that masturbation, videotaping and nude hula-hooping were not therapy techniques but just activities he happened to be filming. But when you consider the evidence that was presented during this trial, you will realize that what Arlan and Linda Kaufman did to Mary and Barbara when they directed their nude sexual performances was not a legitimate interaction between a therapist, a nurse and mentally ill clients, regardless of what they call it. You will also realize that Mary and Barbara's nude performances were not voluntary but rather were coerced.

What was that evidence? Well, first of all, you heard from Dr. Menninger and Dr. Wetzel, two board certified psychiatrists, both medical doctors. You heard from Dr. Buchele, a clinical psychologist who specializes in group therapy and treating sex offenders; and you heard from Charles Frankenfeld, a licensed clinical social worker. Every one of these eminent people told you that there is no place for nudity or sexual conduct in a psychotherapy group, especially not for people like Mary and Barbara who suffer from the

grandaddy of all psychotic disorders, severe and persistent schizophrenia. In fact, they all told you that the conduct orchestrated by Arlan Kaufman as he made the videotapes you saw, group masturbation, oral sex, and genital shaving, not only violates any standard of ethics, but would actually be extremely harmful to schizophrenics who already have difficulty understanding normal social boundaries. Requiring people in Mary and Barbara's position to act out sexual conduct in the nude is both terrifying and isolating. A recipe to remove them even further from the mainstream of society.

But the evidence that what Arlan and Linda Kaufman were doing in that filthy and disgusting back room at 7th Street was nothing but entertainment for the Defendants goes far beyond a lack of scientific justification. You can see what the true focus was of those so-called therapy groups by watching the videotapes. In video after video, Arlan Kaufman uses the zoom feature of his camera to zero in on the genitals of Mary, Barbara and the others. Remember the video in which Arlan Kaufman directs five mentally ill residents of Kaufman House, including Barbara and Mary, to do the hula-hoop? You saw the focus there as Arlan Kaufman made comments like "free up your penis", and then proceeded to zoom in on the genitals of his patients. You don't need a degree in psychology to know that a social worker who videotapes another man's penis

as he does the hula-hoop isn't doing it for anyone's mental health.

And remember the videotape of the nude statues in Vatican City? What was the focus there? Once again, the camera zoomed in on the genitals of the statues. What could any of this possibly show other than that Defendant Arlan Kaufman has a pornographic interest in looking at genitals? An interest that he and Linda Kaufman fed by making sure that he could look at his virtually captive mentally ill clients. And then there were those stomach-turning videos of Arlan Kaufman touching the vaginas of Barbara and Mary with his bare unwashed hands. A ritual that Kevin and Jerry told you was routine at the Kaufman House. Indeed, you heard from Kevin that Arlan Kaufman fondled Mary and Barbara's genitals hundreds of times.

As ridiculous as the claim is that it's somehow legitimate for a social worker to stage genital shaving and nude hula-hoop videos, it can't hold a candle to Defendant Arlan Kaufman's claim that his blatant sexual abuse of Barbara was done for the clinical reason of helping her to overcome a delusion. It is important to remember, first of all, that Arlan Kaufman had absolutely no medical training. He wasn't a medical doctor. He had a PhD in social work. And the experts in this case all told you that psychologists and social workers are never ever allowed to touch their patients'

genitals. And if Barbara was deluded about her genitals, Arlan Kaufman's fondling wasn't going to cure it. As Dr. George Hough, Defendant Arlan Kaufman's own expert witness, told you, you can't reason a person out of a delusion. Arlan Kaufman's unsupported pronouncements from the witness stand can't change basic science or common decency. There is simply nothing clinical about a social worker squeezing the clitoris of a completely nude woman with his bare hands. Not in an exam room, but in a -- on a kitchen table in the presence of her roommates while a video camera is zooming in on her vagina. And there's also nothing clinical about a social worker rubbing the vagina of a nude woman to find out if she gave herself a perfect shaving job as Arlan Kaufman did to Mary. Arlan Kaufman must know this, given his attempt to deny that he ever touched Mary's vagina even though he filmed himself doing it as you saw during this trial. If the sexual acts that Mary and Barbara routinely performed for the Defendants weren't therapy, and Arlan Kaufman was just the cameraman, then you can only conclude that Mary and Barbara were props in a perverted play and that the effort they expended to perform for the Defendant's camera was labor.

The next element the Government must prove is that the Defendants obtained Mary's and Barbara's labor through the forbidden means set out in the statute: Threats of serious harm; physical restraint; the abuse of law or the legal

process; or a scheme, pattern or plan intended to create the fear of serious harm. Although the Government is required to prove only one of these forbidden means, we have proven them all.

Serious harm has a very broad definition under the law. It includes both physical and non-physical types of harm. Essentially, any improper consequences that are enough to compel the victim to work. Arlan and Linda Kaufman threatened serious harm against Mary and Barbara to secure their pornographic performances in ways almost too numerous to mention. Arlan Kaufman threatened Barbara with serious harm when he told her that he was going to retroactively charge her for years of therapy services if she didn't agree to allow him to videotape her nude body and show the tapes to other people. Arlan Kaufman also inflicted serious harm when he choked Barbara, grabbed her hair and shoved her into a urine-soaked bed sheet and forcibly silenced her by putting his hand over her mouth. Kevin, Peter and Nancy all told you about these things. The only witness to contradict them is Arlan Kaufman. As Kevin and Nancy also told you, Arlan Kaufman threatened to send Barbara to Topeka State Hospital if she refused to submit to his reign of terror. Threats of a nature that even Arlan Kaufman admitted in a sworn deposition had the ability to make Barbara suicidal.

Arlan and Linda Kaufman also manipulated both

Barbara and Mary by punishing them with physical restraint that involved forced nudity. As witness after witness told you, Mary and Barbara were frequently locked in their rooms without their clothing. Their clothing was often locked up even when they were outside their rooms. And neither one of them was free to leave the house alone. Yesterday, Defendant Arlan Kaufman identified the documents he wrote setting out circumstances in which Mary and Barbara would lose their clothes as punishment and had to admit that it was strange to punish two women in this way who he claimed were voluntary nudists.

And, of course, the Defendants purposely exposed Mary and Barbara to an environment in which they saw physical violence inflicted on others who crossed the Defendants. You heard, for example, from Peter that Mary and Barbara were present when Arlan and Linda Kaufman took turns shocking Peter in the testicles with the stun gun. Mary and Barbara could only have gotten the message that their nude sexual performances would be secured by any means necessary, from physical violence to having Linda force them to write sentences over and over like first graders, to pure psychological coercion.

Now, your instructions tell you that once you have found that the Defendants used prohibited means, you must also find that the means were sufficient to compel Mary and Barbara

to perform sexual labor for the Defendants. About this, there is certainly no doubt. Given the atmosphere of complete control that pervaded Mary's and Barbara's lives at 7th Street, an atmosphere Kevin described -- excuse me -- as a cult dominated by the leadership of Arlan Kaufman, there is simply no possibility that Mary and Barbara could have resisted the Defendants' demands for sexual services. This is especially clear when you consider, as the law allows you to do, Mary and Barbara's special vulnerabilities, namely, their particularly severe mental illnesses.

Now, Defendant Arlan Kaufman has worked very hard in this case to convince you that Mary and Barbara volunteered to display themselves for his camera. In fact, he told you there was virtually nothing that happened to Barbara and Mary at the Kaufman House that wasn't, as he put it, self-imposed, from being locked in a seclusion room to having their clothing taken away. But both Defendants know full well that Mary and Barbara had no business volunteering for anything, much less to provide nude sexual performances. You heard it from prosecution witnesses; Defendant Arlan Kaufman's witnesses; Defendant Arlan Kaufman's own experts -- expert; and even from the Defendants themselves through their documentary admissions. And you saw it with your own eyes. Mary and Barbara were effectively incompetent.

You saw the papers that Arlan Kaufman submitted when

he had himself appointed Barbara's legal guardian. The papers describing her as persistently delusional and incapable of making any of her own decisions. You saw the papers Arlan and Linda Kaufman submitted to Medicare about Mary which called her functionally retarded and her judgment grossly impaired. Mary and Barbara could not possibly have resisted Arlan Kaufman's instructions to be nude, to masturbate for his video camera and to allow him to touch their private parts. You saw on the videotapes what happened when they did dare to ask questions or try to resist. Who could forget the pitiful scene in which Mary tried to complain to Arlan Kaufman that he was forcing her to look at Kevin's penis while he masturbated in front of her face. You saw what the Defendant Arlan Kaufman did to this seriously ill and child-like woman. He told her that, yes, she did want to look at it. He chastised her for making Kevin feel bad and he berated her until she dissolved into sobs and apologized. Arlan Kaufman made it clear to Mary that there was no way to say no; that whether she wanted to look at genitals or not, she was going to. And remember also that by 1996, as you saw yesterday, at the age of 39, Mary had to beg Arlan Kaufman just to go out for a cup of coffee. Likewise, in 2004, 55 year old Barbara was grounded for inviting visitors into her house. Under these circumstances, the notion that Mary and Barbara somehow volunteered for lives of sexual servitude is ludicrous.

In apparent recognition of the obvious, the Defendants have gone out of their way to make you forget about how they exploited and manipulated Mary and Barbara and focus instead on how people like Dean, Amy, Peter and Jerry ultimately refused to be part of the nudity at Kaufman House and who were not hog-tied or beaten as punishment. But you should see that for the diversion tactic that it is. Read your instructions carefully. When you do, you will see that the law does not require the Government to prove that the Defendants held a gun to anyone's head; nor does it require us to prove that they used -- that the Kaufmans used unlawful means to coerce every person in their house to engage in sexual labor. All the law requires you to determine for Counts 2 and 3 is whether Mary and Barbara were so overpowered by the Defendants that reasonable people in their shoes would have felt compelled to do as the Defendants said. There is no meaningful comparison between Mary and Barbara and these other residents. Dean and Amy had jobs and their own transportation. Peter and Jerry live in their own apartments now by themselves. Mary and Barbara have never been able to do any of these very basic things in a half century of life on this earth. So, of course, the Defendants picked on Mary and Barbara, the weakest of the weak. People with the freedom to choose would not choose to lay on the dirty floor of 7th Street and masturbate in front of Arlan and Linda Kaufman for

years on end. But Mary and Barbara had no such freedom until someone finally came to get them.

Now that we have demonstrated the overwhelming evidence that proves the first two elements of Counts 2 and 3, you must consider whether the Defendants acted knowingly. All this means is that the Government must prove that the Defendants forced Mary and Barbara to engage in sexual labor on purpose and that it wasn't by accident or a mistake. Here again, there is no doubt. While Defendant Kaufman will no doubt tell you yet again that he really believed that he was helping Mary and Barbara by giving them, as he called it, the rare privilege to be nude and masturbate in front of a video camera, the Defendants' web of secrets and lies tells you otherwise. The web of secrets stretches all the way back to the 1980s when the Kaufmans started fighting to keep SRS from licensing the Kaufman Treatment Center. The whole dispute between Kaufman House and SRS was over whether the Kaufman House was a group home for the severely mentally ill or whether Arlan and Linda Kaufman were mere landlords to a group of people who all just happened to be severely mentally ill. Ladies and Gentlemen, what landlord walks into rental property whenever she feels like it; locks up a tenant's clothing or keeps a seclusion room to punish tenants for such things as allowing guests in the house? Of course the Defendants weren't mere landlords. The very suggestion is ridiculous.

But why were they so dedicated to convincing SRS that that's all they were? Because if they actually got a state license, two things would happen. First, they would have had to start providing the residents with decent services and a decent place to live. Second, and more importantly, they would have had to allow SRS to come in and inspect them and talk to the residents, which would have put an end to their carefully cultivated plan to enjoy live pornographic performances on a daily basis.

And the web of lies went far beyond SRS. When those Butler County Sheriff's Officers were called out to the Potwin farm on November 8 of 1999, why didn't Arlan Kaufman just tell the officers about his innovative family therapy program that includes masturbation, genital shaving and videotaping? Shouldn't he have been proud of his cutting edge work? Especially if it really was helping these people? And how about a few days later when Captain Murphy and two SRS workers showed up on the front porch of 7th Street. Why did Linda Kaufman tell them that there was no nude therapy inside the Kaufman House and that there was nothing sexual about the nudity when she knew that the group meetings involved masturbation and Kaufman House residents touching each other's genitals? Not to mention oral sex between Gerald C and James. If Linda really thought she and her husband were running a legitimate treatment program, why not come clean? Why in

nearly 20 years did Arlan Kaufman never share his supposed treatment breakthrough with anyone else in the profession and instead demand that his patients keep their therapy a secret? And why didn't Defendant Arlan Kaufman tell anyone about his own nudist practices? Listen for the answers to these key questions in defense counsel's closing arguments.

Ladies and Gentlemen, the Government has more than proven beyond a reasonable doubt each of the elements of forced labor against Mary and Barbara that occurred after October 28 of 2000. You heard Kevin and Jonathan both tell you that Mary and Barbara continued to perform sexual acts for the Defendants until each of them left the house in 2001 and 2004 respectively. No one has contradicted that testimony. In addition, the Government has introduced videotapes depicting nude sexual labor by Mary and Barbara dated in 2001. Because all of the sexual labor that occurred during this time frame was unlawfully obtained in the manner I have just described, you can confidently mark the Defendants guilty of Counts 2 and 3.

Counts 4 and 5 of the indictment charge the Defendants with similar conduct involving Mary and Barbara as do Counts 2 and 3. Except for the fact that Counts 4 and 5 concern conduct that occurred before October 28 of 2000, the crime is essentially the same: That Mary and Barbara were forced to do labor for the Defendants for a term, which means

a period of time, through prohibited means. The major difference in the statute concerns one element. One that makes very little difference given the egregious facts of this case. Under 18 U.S.C. 1584, the Government has to prove that the Defendants obtained labor from Mary and Barbara through physical force or the threat of physical force or through the use of legal coercion, such as the threats to have Barbara committed to a state hospital, for the improper purpose of securing her pornographic performances. Proof of mere serious harm is not enough for this statute. But based on the evidence I have just described and the other evidence you have seen and heard in this case, you know that the Defendants routinely used physical force, physical restraint, and threats of legal coercion directly against Mary and Barbara in a manner that would have been more than enough to compel these mentally incapacitated women to perform hard physical labor at the Defendants' farm as Mary did on November 8 of 1999, and sexually explicit labor for the Defendants' cameras as both women did for many years prior to October 28 of 2000. Again, the Government has introduced a videotape containing sexual labor dated in September of 2000, and that is Exhibit 109. As well as testimony that Barbara's and Mary's sexual labor was continuous from the time it started in the 1990s until the time they left the Kaufman House. Again, no one has contradicted this testimony. Defendants are therefore guilty

of Counts 4 and 5.

Count 6 of the indictment once again charges the Defendants with --

MR. JOSEPH: Your Honor, I need to make an objection at the bench.

THE COURT: Do you really? I mean, to interrupt --

MR. JOSEPH: Fifth Amendment violations are just repeatedly happening here with her. The Defendant Linda Kaufman has not contradicted this evidence.

THE COURT: Well, the jury will be instructed, as it has been instructed, that a defendant does not have to testify or otherwise produce evidence. Linda Kaufman did not testify. She did, however, produce evidence and you may consider the evidence that she produced; but you may not and must not consider the fact that she did not testify in any way in reaching your verdict. Go ahead.

MS. PARKER: Count 6 of the indictment once again charges the Defendants with violating 18 U.S.C. 1584. This time the charge concerns Kevin, James and Jonathan and the incident that occurred on November 8 of 1999, at the Defendants' farm in Butler County. In order to find the Defendants guilty of Count 6, you must find that the Defendants intentionally coerced any one of the three named victims to work on their farm through prohibited means. There is no dispute that Kevin, James and Jonathan were out at the

farm working in the nude on November 8 of 1999. As they all three told you, they were out there working on an ongoing project to tear down a barn. And it was certainly no accident that Kevin, James and Jon were out there. The Defendants have both admitted at various times that the Kaufman House had a work program or activity program out at the farm that entailed some of their mentally ill residents performing manual labor in the nude. The dispute concerns whether Kevin, James and Jonathan were working in the nude because they freely volunteered to do so or whether they were compelled to be there by the Defendants. Once again, the issue is whether Kevin, James and Jonathan were capable of consenting and did consent to work in the nude at the farm and whether, if they weren't, that the Defendants used threats of physical force or legal coercion to get them to work in the nude. By now you know the Defendants' position. Kevin, James and Jonathan, just like other Kaufman House residents, liked being nude and were given the option to be nude. James and Jonathan even said as much when they came in here and testified, that it was their own choice to be nude at the farm. But, Ladies and Gentlemen, not all choices are free. And the evidence in this case has established beyond any doubt that Kevin, James and Jonathan were illegally compelled to work in the nude.

Let's look at that evidence. First of all, it was not Kevin, James and Jonathan's idea to work in the nude. As

Kevin and Jonathan both told you, they weren't nudists, naturists or anything of the kind before coming to Kaufman House. Rather, Arlan Kaufman convinced them that nudity in general and nude farm work in particular was a treatment for problems ranging from body shame to anxiety. Kevin, James and Jon all trusted Arlan Kaufman as their doctor, and they all told you that they did everything Arlan Kaufman told them to do. Most importantly, Kevin and Jonathan told you that the choices they were presented by Arlan Kaufman when they agreed to work in the nude were either to cooperate with working in the nude or to go to a nursing home or be committed to a state hospital. And Arlan Kaufman minced no words telling his gullible victims what terrible places these were. That, Ladies and Gentlemen, is a threat of legal coercion every bit as manipulative as the threats Arlan Kaufman made to Barbara about Topeka State Hospital. The threats were all the more severe when you consider that Arlan Kaufman exposed these vulnerable men to physical violence and physical restraint that he imposed on other residents at the house. The stun gun, the various attacks on Barbara, and the seclusion room just to name a few. Jonathan told you that he felt threatened when Arlan Kaufman waltzed into his living room waving a stun gun. Who wouldn't? And Kevin told you that he always believed that Arlan Kaufman would enforce his attendance at the farm with consequences that would include physical

violence and physical restraint. Kevin told you with his words and with the fear you heard in his voice that he was afraid of Arlan Kaufman.

Now, you know that the defense is going to make hay out of James' statement that he didn't mind working for no pay in the nude. What choice did they have? But your instructions tell you that you don't have to set aside your own common sense when you deliberate. You saw James. You heard his ramblings. He is obviously no more competent to make his own decisions than Mary or Barbara. He has also apparently forgotten in his weakened state about all those times you saw on videotape when Arlan Kaufman ordered him to take off his clothes or refused to allow him to put his clothes back on. And while James might have liked being nude, you have heard from every expert witness in this case that working in the nude is a serious danger to someone in James' mental condition. Some children might enjoy running out into the street or playing with knives; but their parents wouldn't allow them to do those things, much less demand them. And as we have seen, this is not a case in which the Defendants were merely negligent or incompetent. They directed James to work naked to satisfy their own perverse desires.

Now, you also know that the defense is going to dispute Kevin's damning testimony and tell you that you shouldn't believe that he felt forced to work at the farm.

You saw how articulate and intelligent Kevin was when he was on the witness stand. The defense will tell you that a person that smart is certainly free to make his own choices and that it doesn't make sense that Kevin was once such a loyal supporter of the Kaufmans and now has changed his mind only a year after leaving the house. But think again about all the testimony you heard about how schizophrenia effects the mind and how a dynamic and powerful therapist can control even the most intelligent person who suffers from it. Kevin is not only a living symbol of how schizophrenia can deprive the world of a person, he is also a living symbol of the therapist's power to control. Arlan Kaufman controlled everything that Kevin held dear: The house he lived in, the people he considered to be his family. When Arlan Kaufman told Kevin to work in the nude, he did it. If people who are not mentally ill like Florine and Metta could be intimidated by Arlan Kaufman into signing documents they didn't understand and didn't agree with, what chance would a severely ill man like Kevin have while he was under Arlan Kaufman's roof? Kevin is better now, thinks more clearly now, because he finally has a chance to control his own life. What better evidence could you have of the power the Defendants wielded and the damage they caused with it than to compare the Kevin you saw in those videotapes to the Kevin you saw in this courtroom? And you should also make another comparison. This

time between the credibility of the Government's witnesses and the only person to contradict them. The only person who chose to contradict them, the Defendant Arlan Kaufman.

MR. JOSEPH: Your Honor, I object again.

MS. PARKER: The Government welcomes --

MR. JOSEPH: Your Honor, that's another Fifth Amendment violation.

THE COURT: The jury has heard my instructions several times on this matter and I'm sure will be able to disregard comments that infringe upon the Fifth Amendment rights of Defendant Linda Kaufman. Let's see, you've got five more minutes on your 55 minutes time.

MS. PARKER: I do?

MS. TREADWAY: Ten. She started at 9:36.

THE COURT: Well, perhaps I miscalculated. You're right. You have ten more minutes.

MS. PARKER: Thank you, Judge.

The Government welcomes that comparison for reasons that should be obvious. When you make those comparisons, you will know beyond any doubt that the Defendants are also guilty of Count 6.

Count 7 through 22 of the indictment charged the Defendants with health care fraud. As Judge Belot has instructed you, the Government must prove the following elements beyond a reasonable doubt in order for you to convict

the Defendants of these counts. There is no dispute that the Defendants' actions were in connection with the delivery and payment of benefits under the Medicare program. Thus, the disputed elements of the health care fraud counts are: One, did the Defendants devise and execute a scheme to defraud Medicare? And, two, did the Defendants act intentionally? As you've probably figured out, the mail fraud counts, Counts 23 through 27 and 29 and 30, are related to the health care fraud counts with the difference being the victims. With the health care fraud counts, the victim is Medicare. With the mail fraud count, the victims are the Kaufman House residents' families.

Judge Belot has instructed you that the Government must prove the following elements beyond a reasonable doubt to prove that the Defendants are guilty of mail fraud. Again, there really is no dispute that the Defendants used the mails and caused the mails to be used when they sent their invoices to the families and received the families' checks. Therefore, just like the health care fraud counts, the disputed elements are: One, did the Defendants devise and execute a scheme to defraud; and, two, did the Defendants act intentionally? And another question the evidence answers is: Three, did the Defendants use material, false or fraudulent pretenses, representations or promises in their mail fraud scheme?

The Defendants' scheme to defraud began in 1991 and

continued through 2001. The years for which the Defendants submitted claims to Medicare and invoices to the residents' families for the same so-called therapy. The Defendants claimed to have provided a multitude of types of group therapy: Current events, religious discussion, how to get along in the house, sexuality group and massage group. As to the first three, current events, religion and getting along in the house, these are not billable to Medicare, as Kathy DeHart from CMS told you and as Dr. Wetzel confirmed for you. As to the last two, sexuality group and massage group, these were not any form of legitimate or recognized therapy, as every expert has testified and as I have already explained. If Medicare won't pay for recognized therapy, Medicare certainly shouldn't be paying for unrecognized therapy. And if the Defendants didn't bill for any of these therapies, what did they bill for?

Another problem with the so-called therapy charge to Medicare and to the families is that the sessions were billed in such numbers as to be unreasonable and unnecessary. Again, the experts made it clear. In dealing with such a fragile population such as chronic schizophrenics, less therapy is the key, not more. But the Defendants billed for multiple therapies a day and many each week. Dr. Wetzel also told you that group therapy for Amy G, who Kevin said didn't even come to group therapy regularly and who was generally non-verbal,

would be totally useless. And as Dr. Wetzel told you, the numbers and frequency of the so-called therapies told him that the Defendants were running a Medicare billing mill. But even if the Defendants could justify the types and frequency of the so-called therapy they billed for, the Defendants had no documentation to support the claims they submitted. This fact alone is sufficient to support the Medicare and mail fraud counts. All we have is these lists of hundreds of therapy sessions with nothing but after-the-fact manufactured records to support a few of them. The witnesses that talked about documentation were all consistent. You need to contemporaneously document encounters you have with your patients, whether group or individual therapy. If there is no such documentation, the rule is simple: If it isn't documented, it didn't happen. And if it didn't happen, you can't send a bill to Medicare for it and you can't send a bill to the families for it. Simply put, the Defendants couldn't support any of the claims they submitted to Medicare or the invoices they sent to the families for their so-called therapy.

And the nursing charges on those invoices to the families are no better. Defendant Linda Kaufman can't have been serious when she sent these invoices to the families claiming to have provided nursing services to their children. As her counsel had to admit to you in opening statement and as

witnesses testified during this case, she provided access to medication; not control, not management. And as a result of her not performing traditional nursing services of actually monitoring the residents taking their medications, there were at least three overdoses that have been discussed in testimony. One by Peter, and two by Tom. And for Defendant Linda Kaufman to charge for transporting Kaufman House residents to doctors so she could keep them from revealing the pornographic activities at Kaufman House like she did when she took Nancy to the clinic or Barbara to see Dr. Hon, is the height of insult. There is no way out of the Medicare and mail fraud counts, Ladies and Gentlemen. While the Defendants would like you to believe that Medicare rules were just too difficult for them to understand; you heard from Defendant Arlan Kaufman himself that he and Linda Kaufman attended a seminar on how to properly document mental health services and properly bill Medicare mere days before they submitted documents to Medicare that are now in question. And he and Linda Kaufman could not possibly have thought that no documentation was acceptable. Mark your verdict forms guilty on each of the health care and Medicare fraud counts.

Count 32 and 33, which charge the Defendants with making a false writing to Medicare and obstructing a federal audit are also related. In order to prove the Defendants guilty of Count 32 of the indictment, the Government must

prove each of the following elements beyond a reasonable doubt. The fourth and fifth elements are not in dispute. The Defendants clearly sent documents to Medicare concerning the claims for their so-called psychotherapy. And Medicare is a health benefit program.

In order to prove the Defendants guilty of Count 33 of the indictment, the Government must prove each of the following elements beyond a reasonable doubt. Again, the third element is clear. Kathy Smith was working as an auditor and Blue Cross/Blue Shield of Kansas received in excess of $100,000 from the United States every year, according to Kathy DeHart's testimony. The dispute therefore centers on whether the Defendants submitted false documents and false writings, which they clearly did. The Defendants had no documentation to send to Medicare. It didn't exist. So what did they do? Defendant Arlan Kaufman explained it all to Agent Dan Coney during the June, 2001, search. Defendant Arlan Kaufman told Agent Coney that he had created the documentation once Medicare asked for it. He developed the summaries from his memory. He didn't have to write anything down because he had worked with these residents for so long. But when Kathy Smith told the Defendants that the summaries wouldn't do, the Defendants claimed that they couldn't send the documents because of privilege. Of course, this was just a delay tactic. The reason they couldn't send the documents to

Medicare, the therapy notes that Kathy Smith asked for, was that those notes did not exist. Although Arlan Kaufman now claims that he had notebooks filled with privileged material, that's not what he told Dan Coney. And Dan Coney and his fellow agents didn't find any such documentation in their search.

Arlan Kaufman chose to put on a defense in this case. Ask yourself why, if he had this documentation, he didn't bring it in to show it to you. But the Defendants had an incentive to make something up back in 2001. Medicare told them clearly in the prepayment review letters, Exhibits 33-B through H, that if the documents didn't show up on Medicare's doorstep, the Medicare money would not show up at the Kaufman House. So, once again, the Defendants created something for Medicare: The handwritten notes and the boilerplate letters and discussions about group therapy with psychotic symptom patients. But they didn't do a very good job. The notes were too brief, were often not related to the patient at issue, and they sent in identical records for Amy and Mary. So in one fell swoop the Defendants submitted false writings to Medicare and obstructed Kathy Smith's audit. Again, the Defendants have no defense to these charges. Ladies and Gentlemen, you can confidently mark guilty on Counts 32 and 33.

Although I've now explained all of the elements of each of the substantive counts to you, there is one more legal

principle left to cover. Criminal liability for aiding and abetting. A person who aids and abets a crime is liable for the crime just as if she had committed it herself based on the idea that the law doesn't give breaks to people who play supporting roles in crimes and that people should be responsible for the consequences of their freely chosen actions.

In order to convict for the crime of aiding and abetting, you must find beyond a reasonable doubt that someone committed a crime and that another person intentionally associated herself with the crime and intentionally participated in it as she would something she wished to bring about. Both Defendants are charged as aiders and abettors for each substantive count in the indictment. But the statute is especially pertinent to what you will no doubt hear in just a few minutes from Defendant Linda Kaufman's counsel. According to Mr. Joseph's presentation, Linda Kaufman was just the wife and just the secretary who did what her husband wanted and neither saw nor heard any evil. Unfortunately for Linda Kaufman, this argument bears no relationship to the evidence or to the law. Despite Arlan Kaufman's rather absurd attempt not to mention Linda in his direct examination, he couldn't avoid saying we did this and we did that over and over as he spoke of the family business. And he had to admit, as I've already reminded you, that Linda Kaufman was no innocent

bystander in this case. She knew all about her husband's abusive and pornographic therapy scam from the very beginning and helped him to convince her severely mentally ill patients to take part in it and to conceal it from doctors and from the authorities. Just as importantly, she used her motherly appearance and compassionate demeanor to dupe the parents of her victims in a way that undoubtedly extended the life of the conspiracy. None of those parents would have suspected during one of those friendly little chats at Dillons or on the front porch at 7th Street that the real Linda Kaufman controlled the inner sanctum of 7th Street, callously watching their sons and daughters masturbate on the filthy romper room floor. That, Ladies and Gentlemen, is masterful deception, which is the hallmark of fraud. It is also aiding and abetting.

Finally, Ladies and Gentlemen, during this trial the Government has unboarded the windows and unlocked the doors of a house that has been locked, as Laura Lautt from SRS put it, tighter than Fort Knox to the outside world for almost a quarter century. After years of evasion of every imaginable law enforcement agency and regulatory board, Arlan Kaufman finally came into a courtroom and tried to explain himself. He lectured you on his ideas about psychology and social work and his ideas about family for hours on end. He told you as, of course, he would, that there was a legitimate explanation for what he was doing in the romper room at 7th Street. And

he told you in effect that no matter what everyone else in the scientific community says about how to treat schizophrenia, Arlan Kaufman knows best. But Arlan Kaufman has a big problem that no amount of time on a witness stand can cure. Arlan Kaufman never once gave that explanation to anyone until this trial. He and Linda Kaufman chose instead for over 20 years to lie under oath in 1992, to the police in 1999, to Dan Coney in 2001, and to the parents of their patients for years. Arlan Kaufman not only never consulted anyone in his field about his innovative methods, even though he told you himself that he knows that such consultation is vital, he and Linda demanded that their patients join them in their secret and live, as Jonathan and Kevin told you, double lives.

You see, Arlan and Linda Kaufman knew that if they told the people in the mental health community what they were really doing, it would all come to a grinding halt as it did when Lee R found out what was happening to his son Tom. As it did when Leland H found out what was happening to his daughter Mary. As it did when Barbara was finally able to tell Sgt. Walton that she wanted out. But the rationale for the Defendants' years of silence goes beyond their arrogant belief that they are smarter than the most accomplished mental health professionals in this country. The Kaufmans knew that there was no explanation for incorporating their own obsession with nudism and genitals into the treatment of their patients.

They knew that nothing could explain videotaping a patient's vagina, touching patients' genitals or telling one patient to allow another to perform oral sex on him. You saw Arlan Kaufman try to explain it and you saw that explanation fall apart in front of your very eyes. Yes, the Defendants knew all along what you know now: That this was not some academic dispute. It is a crime. A crime that stole 20 years of the lives of five human beings through the most despicable means imaginable. Arlan Kaufman dismissively calls his victims these people. We call them Mary, Barbara, Kevin, Jon, and James. And we ask you now to hold Arlan and Linda Kaufman accountable for using their victims, the Medicare program, and their victims' families to satisfy their own pornographic desires. We ask you to reach the verdict demanded by the evidence: A verdict of guilty on all counts. Thank you.

THE COURT: I think we'll take our recess, at least our first recess, now, Ladies and Gentlemen. Remember and heed the admonition. Let's try to keep this to about ten minutes.

(Recess.)

THE COURT: Mr. Haney, you may proceed. Do you want any kind of a warning?

MR. HANEY: Thank you, Your Honor.

THE COURT: Mr. Haney. Do you want any kind of a warning?

MR. HANEY: I hate to tell you how long I may speak; but I think I can give my own warning for myself.

THE COURT: All right, sir.

MR. HANEY: Ladies and Gentlemen, thank you for being here. On behalf of I think everyone in this room, we appreciate your service. This is hard. You've been here for five weeks. It's an important job. It's a job we don't find in very many countries any more. There aren't very many people who go before a jury of their peers to determine their guilt or innocence. A lot of times it's done by one person. Sometimes it's done by a political tribunal. Sometimes guilt or innocence is done by whoever happens to be in power at the time. Justice, if it exists, can be swift and it's usually pretty certain. You perform a valuable service to the American system of justice. Only you. Judge Belot is the judge of the law in this case. He tells the lawyers, he tells you and I and everyone in this courtroom what the law is. We may not agree with it, we may wish it was changed, we may wish it was something else, but he is the giver of the law which has to be followed. And let me say before I really start argument that if I've offended you by something I've done or said, I apologize. If I've offended the Court by something I have done or said or the manner I presented evidence, I apologize to the Court.

THE COURT: You have not.

MR. HANEY: Thank you. But, Ladies and Gentlemen, if I have done something you find offensive or improper or you didn't like, hold it against me, not against my client. I have tremendous faith, as I think does everyone in this courtroom, of the jury system. We believe it works. That's why we've kept it for over 200 years. I firmly believe that you twelve people can separate the wheat from the chaf in this case and you can find the facts in this case and the evidence in this case. Remember your decision is based on the law and the facts, and the facts are the evidence which was presented from the witness chair, from exhibits, from documents, from videotapes. What the lawyers say and what I'm saying now isn't evidence of anything; and if you believe something contradicts the evidence that I say or any attorney says in this case, ignore it and go with the evidence.

Also you will find that Judge Belot in his many pages of instructions won't tell you to let your emotions run away with you in this case. It's hard to do. This is an emotional case. The Government's argument was based in great part on emotion. Let's stir you up, let's get you upset, let's use some words that are inflammatory, upsetting, but remember the evidence and the law in this case is what you base your decision on. And, Ladies and Gentlemen, there are very few Clarence Darrows around any more that can give eloquent beautiful closing arguments and you can just see a

jury swoon essentially. I'm not a Clarence Darrow and I can't do that and I won't be able to do that. I want to try and present the facts and the law simply without emotion, without labels, without characterization, but what you heard and what you're going to hear when you go back in the jury room and listen to the tapes. Let's leave out the inflammatory remarks.

First of all, there's an old expression that says where there's smoke, there's fire. Well, that's an expression. We have 32 counts in this case. We have been here for five weeks. The Government's indictment itself spans almost, almost 25 years, 25 years from 1984. There's been a lot of money spent on this case. There's been a lot of investigators, been a lot of state and federal agencies in this case. So Dr. Kaufman's got to be guilty of something or we wouldn't be here. The Government doesn't charge people that are not guilty. They don't do that. We wouldn't be here if he wasn't guilty. Ladies and Gentlemen, the indictment, as Judge Belot has told you and as you heard when you walked into this courtroom for the first day, is no more than an accusation. That's it. All the multiple pages in that indictment are nothing other than an accusation and it is proof of nothing. Regardless of how it's worded, regardless of how inflammatory it is, regardless of how it characterizes evidence which you hear, it's proof of nothing. The proof

comes from the witness stand, from the exhibits and the documents. You, as a very wise federal judge in Topeka says occasionally, are the shield that stands between the sword of the government and the body of the citizenry of the United States. It's you. It's not enough based on the evidence that you think someone may be guilty or you think there may be proof out there that someone is guilty or you think that someone is more likely than not guilty or you think by a greater weight of the evidence that someone may be guilty of something. That's not enough. Each one of you, all 12, that decide this case must be satisfied beyond a reasonable doubt as to each and every element of each and every charge. If you have one reasonable doubt as to one element, the person is not guilty. That's the only way the system works and that's the way we've had it in place for two hundred and some years.

The Defendants are presumed innocent when you came into this courtroom. They're still presumed innocent when you go into the jury room. They are still presumed innocent. That's where you start. And if the Government hasn't proven each and every element beyond a reasonable doubt to you, you will find the Defendants not guilty simply based on a presumption of innocence. Don't need anything else.

Let me talk to you first, Ladies and Gentlemen, about what this case is not about because we've heard some things that may be confusing as to what the case involves and

what it doesn't involve.

What the case is really about. Can we put our graphic 7 up. What is it not about? First one, quality of therapy. You are not here to determine whether Dr. Kaufman's therapy was good therapy, whether it was bad therapy, whether it was mainstream therapy, whether it was controversial therapy, whether someone would have done it different, better or worse. That's not a question. That's not an issue. Was there a crime that was committed by Dr. Kaufman is the issue, not the quality of therapy. Not whether someone would opine to you that I would have done it differently, that I would have had less therapy sessions than Dr. Kaufman did, that I would have not allowed the people in a therapy session to be nude. Those are opinions. There is no crime for doing what Dr. Kaufman did.

Number 2. Malpractice. Is Dr. Kaufman a good therapist or a bad therapist? Did he follow ethics? Did he not follow ethics? Was he negligent? Was he not negligent? Could someone have done better? Did he maintain the quality of care which one would expect to be standard in the industry? This is not a civil malpractice case. You don't have to concern yourself with those issues. You don't have to concern yourself there may be other doctors that do things differently or that think that Dr. Kaufman was not mainstream or that he did not follow a standard of practice.

Next. Licensing issues. This is not a licensing case whether Dr. Kaufman should keep his license or not keep his license to be a practitioner. Licensed by the board, the State of Kansas, BSRB. That's not what we're here for. He has chosen years ago not to renew his license. That's an administrative matter. Has nothing to do with this case. Whether he should keep his license or not keep his license has nothing to do with this case. Was there a crime or crimes committed? That's your only question. That's the issue.

Social Security issues. We heard from Social Security people. For what purpose? I don't know. To come in here with charts and give you the illusion that there's some Social Security crime that has been committed because Dr. Kaufman was a payee for Social Security. The Court has told you in an instruction you are only concerned with the crimes charged. Why this came in, I don't have any idea other than let's throw everything against the wall and see if we can make something here stick. So let's talk about Social Security issues. There is no crime even alleged concerning Social Security issues. That's not an issue.

Accounting by a guardian. We have for some reason heard about Barbara T for whom Arlan Kaufman was the appointed guardian. Remember, he was one of several. She had some guardians before that didn't do a very good job. So he's appointed. Where is the final accounting for monies for

Barbara T? That's not before you. That's not an issue. That's another red herring you can think about but there is no allegation in this indictment that Dr. Kaufman did anything wrong regarding Barbara T's accounts. It's not there. And if there was some crime, I would assure you, it would be in this indictment.

Next. Naturism, nudity or nude people in video. That's not what you're here to look at to decide. You heard I don't know how many times, I counted 25, you may have, if you kept notes, maybe you kept closer track than I did, but I counted about 25 times you heard the word pornographic in terms of pornographic video, pornographic actress. Look through the fifty some instructions you have. Look through the indictment. There is nothing anywhere about pornography in this case. This case is not about pornography. There was nothing pornographic. We could argue for days on what that is and I think even the highest courts in this land say essentially -- I don't know, but I know it when I see it. But this case is not about naturism, whether you like naturism, whether you don't like it, whether you believe it performs some function. It's not about that. It's not about nudity. It's not about nude people. And it's not about pornography.

Medicare abuse. This is about Medicare fraud, not Medicare abuse. Medicare abuse, as you heard from the seminar publication that was read to you contains what's commonly

known as Medicare abuse -- if we can put that slide up. Just put the whole thing up. Unnecessary cost to the Medicare program, improper payment of professionally recognized standards of care or that are medically unnecessary. Payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. This is not a crime. This is not fraud. If this occurred, Medicare would either do one of two things. They would either deny payment until they got more information or pay it based upon information that was provided. This is not a crime. Medicare abuse is not a crime. The fact that a therapy session might be conducted differently by someone or be conducted in fewer instances is not a crime. You could go, I assume, to any number of experts and every one would do things differently. That doesn't make Dr. Kaufman's conduct a crime because he had therapy sessions more than the average practitioner. That's not a crime. You heard, well, I wouldn't do this many because it could cause damage. It didn't cause damage. It is not a crime. Also regarding Medicare, if we can put up the graphic, and records, which we'll come back to and visit -- but set this forth so you can think about it. These are also what we read from the manual yesterday, these quotes. Guidelines, policies, procedures are usually so well hidden in governmental publications or dispersed at Medicare

intermediary sponsored seminars only that you can't even find them. So obscure that to find them is not to understand them. And once you finally understand what they're saying, you'll probably have to sit down before you call your health care lawyer.

Next, as a group, psychologists, psychotherapists and clinical social workers are provided the least resources, instruction and guidance when it comes to information pertaining to document for third party payers, and especially Medicare. In a field dominated by the medical profession, we are expected to follow a format that does not pertain to our specialty as experts in the field of psychology.

I didn't make this up. This came from the treatise the Government first discussed yesterday with you.

Dr. Kaufman is not an expert in Medicare and I would submit there are probably very few people that are. I'm not one.

Requested clarification. He sent a letter to Medicare saying what do you want. I can't provide you some of this stuff. I'm not gonna give you psychotherapy notes. And you heard Dr. Wetzel say from the stand psychotherapy notes, he doesn't have to give them. They're protected. Unless there is a release by a patient or a client, Medicare doesn't get 'em. You also heard that even today the law has been codified to make it crystal clear that Medicare doesn't get

them today. Was Dr. Kaufman hiding things or was he protecting his patients? The Government says one thing. The facts and the law say another. Dr. Kaufman gets a letter addressed to Dr. Kaufman, M.D. send us medical records, send us other records relating to those records which a physician would have. He says what do you want, I can't give this to you, give me clarification. What happens? They blow him off. He doesn't even get an answer to his letter. Instead, what he does send in goes to Dr. Wetzel. He makes an opinion based upon records which he says are -- well, these are insufficient. Well, sure they were insufficient. Because, one, he didn't get the later records that Dr. Kaufman sent in; and, number two, Dr. Kaufman could never figure out from Medicare what they wanted in the first place. He sent similar records earlier. It was okay then. But if you think that the letter that he got -- and if you read it, says you were randomly generated for an audit. If you think that Dr. Kaufman was the subject of a randomly generated computer audit, there's no evidence to support it.

In 1991 -- we've heard a lot of evidence about Dr. Kaufman, what happened in 1991 and before. 1991, Ladies and Gentlemen. This is 2005. 14 years ago. Can we put up the 1991. I asked Dr. Kaufman who was vice-president in 1991. I don't know if you thought about that. I had to look it up. James Danford Quayle. The famous how do you spell potato

vice-president in 1991. What else happened in 1991? Dr. Arlan Kaufman gave a 180 page deposition in which he discussed his treatment. You heard about ten lines out of that document. You also heard a reference that Dr. Kaufman lied in that document. Well, there were a lot of lawyers involved in that case. I was not one of them. If there would have been some lying going on there under oath, I assume that those lawyers or those judges would have done something about it. He gave a 180 page deposition in which a therapy facility was discussed. Kaufman House didn't have a therapy facility as he later explained you find in state hospitals. In 1991 Kaufman House didn't even have a therapy -- or a seclusion room. It had been abolished by about three years even in 1991. It was gone. Mary O moved into what was the seclusion room and it was her bedroom. So about 1988, the seclusion room was gone. But we're still talkin' about it today as if it happened yesterday.

I submit, Ladies and Gentlemen, based on the evidence -- and this may be a harsh statement, but I think the evidence certainly substantiates it -- that authorities have been after Dr. Kaufman for decades. Including the BSRB, the Newton police department comin' out to the farm with their cameras clicking telling Patricia Gerard that you sign a complaint or we're gonna take your kids into protective custody. You sign a complaint. They had to put at least one

deputy in a car because he was out of control. Patty Gerard wouldn't sign a complaint. Of course, she can't read or can't write, but she didn't see anything that was wrong anyway.

Newton police department, Sheriff's office, SRS, the Office of the Inspector General, HHS, the Attorney General's office, the Department of Justice, Social Security Administration, after all these years they think they finally got Arlan Kaufman and the world is now safe. They got a 69 year old social worker with a heart condition and the world is now safe.

In this case, Ladies and Gentlemen, in the interest of protecting the mentally ill, the system has been turned on its head. You have seen exhibited from this witness stand a patronizing attitude of the mentally ill. We know what's best. We know what's best. We know what they can't do, what they shouldn't do. We know they can't consent to this. We know even though people came in under oath who are directly involved as participants and said under oath I did this voluntarily because it was fun, we know better. After all, they're mentally ill. They can't say things like that. They couldn't consent to going out to the farm and having fun and tinkering around and being naked. They couldn't consent to that. We know better. They're mentally ill. Well, they were certainly competent to come into a federal courtroom and testify under oath. If they were not legally competent, they

wouldn't be here. But they couldn't consent to going out to the farm because, you know, they're mentally ill. We know better. We need to protect them from Arlan Kaufman. They need the state's protection. You know, they're nude people out there at the farm. We know things were going on in therapy sessions. We've known it for years. Been knockin' on the door over there trying to get in because we know something's going on. There are nude people out there. There are nude people in the house. Postman saw a nude person once. They can't do these things. They shouldn't do these things. They aren't right. And they can't make their mind up or their own decisions because we know better, because they're mentally ill. They are in danger because of therapy which may be conducted. You heard Dr. Menninger say -- tremendous man. I respect him. But listen to what he said and listen to the truth and reality of this. Well, the therapy sessions could be dangerous. Well, if you walk across the street at lunch, it could be dangerous today. Thank you, Dr. Menninger, who in your altruistic manner talked about the Menninger Foundation which at one time was the grandest medical facility in the world, or one of them. It's gone now. It's gone. It failed. The Menninger Foundation who turned out a mentally ill woman after two years, Mary H, because she couldn't pay her insurance. She's gone. The do no harm has to be modified by until the insurance runs out and then it's not our problem any

more. Who is the caring health care provider? Who is the caring health care provider?

Psychoanalytic therapy at the Menninger Foundation. You don't use it on schizophrenia. It doesn't work. Freud was a brilliant individual, but he didn't understand schizophrenia. We don't completely understand it today; but we know enough that we know that psychoanalytic therapy doesn't work. You heard Dr. Buchele talk about, yeah, I'm aware of cognitive behavior therapy. I don't do it and I don't really study it but I know it exists, it's out there. She didn't say it's voodoo.

The farm is involuntary servitude, forced labor and making pornographic movies. That is absurd. Whether you like the therapy or not, which we'll talk about the fact that we're talking about making pornographic movies for the prurient interest of Doctor and Mrs. Kaufman is absurd. Forced labor on November 8, 1999, out at the farm is absurd. You heard what these people were doing out there. They were picking up some brush or walking around. They were naked. Hard farm labor. I grew up on a farm. I know what hard farm labor is and it's not what was going on out at the Kaufman farm. As Patty Gerard said, they were tinkering. The hardest labor you saw was some lifting some cinder blocks from one place and putting them in another and about four people carrying a log. That was the hardest thing you saw. Look through those tapes.

You saw people sittin' down with a hammer and chopin' some stuff in a ditch. Hard labor. There were no sweat shops. There were no people locked in warehouses. There were no trailer with people suffering. And the people that were out there told you, no, this was fun. Well, we can't believe them because, you know, they're mentally ill. They can't tell you what they really feel and they can't really consent. They're living in the community with us but we can't believe them. Instead, let's take somebody's opinion on whether they can consent. Let's talk to somebody who's never even met 'em and get their opinion on whether they can consent. Because these folks are mentally ill.

Work therapy. What was it Dr. Kaufman said? It wasn't even therapy. It wasn't a therapy group out there. They were out there doing things -- and let's not change the evidence. Let's put it exactly the way it was. Walking is not therapy. We had a graph of that. Masturbation is not therapy. That's what he said. But it can be used in instances in therapy. And there are occasions where work may be therapeutic, may be helpful. Even Dr. Menninger would agree with that. Supposedly, people voluntarily diddling out at a farm and doing fun things that they like and piddling here and piddling there and moving things and swimming, that's forced labor. That's slavery. Why, at the Menninger Foundation, we don't do that. Instead, we have our residents

go out and work in a garden, go out and weed things, build brick walls around our swimming pool. Remember that line? Chop wood in the winter for the psychiatrist. And not only do we not pay them for doing this, they pay us for doing it because it's work therapy. Does that make any sense to you? Can you say that is work therapy and what you saw going on out at the farm is slavery? There was no crime that was going on out at the farm. If you don't like nude people walkin' around, swimmin', splashin' around, that's your business. You may or may not. I don't know. Don't care. But there's no crime that occurred out at the farm for doing that. Or you can bet your bottom dollar law enforcement people would have arrested somebody out there. They're out taking pictures, taking statements, running around, people puttin' their clothes on. And what happened? Nothing. Where was the crime? Now we've made it forced labor and slavery, involuntary servitude. It's a crime. But it's not.

For decades Dr. Kaufman has been weaving this web of intrigue and secrecy at the Kaufman House. Pretty impressive to say something like that. But what has happened for decades at the Kaufman House? If you look at the chart we've got over here, these are the residents, the core residents, and how long they were out there at the Kaufman House. For decades some of them. 25 years for some of the people that were out there. Can we put up the graphic? Yeah, just go through some

of these and how bad things really were. Prior to -- prior to coming to Kaufman House, these are some of the problems that the residents had that you've heard about. Peter, physical and sexual violence, home instability. Barb, delusional about her genitalia, sexual identity problems. Mary H, public nudity, stealing, sexual identity problems. James, public exhibition, masturbation, sexual phone stalking. He mentioned James in one of these documents had been arrested. Kevin, 30 year history of fetish behavior concerning inserting objects into his body or orifices, public masturbation, public exhibitionism, homosexual predator behavior. And what happened? Peter, stabilized in two homes for 14 years. Wasn't arrested. Barb, two hospitalizations over 20 years. None in 1991. And they were short hospitalizations. Sexual identity problems were eliminated. Mary H, no criminal behavior in the community. Three hospitalizations over 15 years for short periods. James, exhibitionism eliminated, phone stalking significantly reduced. Saw that tape that he was trying -- he hadn't got that completely under control yet. Kevin, all behavior is eliminated.

Yeah, Kevin did a good job here. I mean when he testified. There isn't any question about that he was very much in control, very intelligent. But Kevin is not better now. Kevin's Kevin. That's the guy he was in these tapes. You listened to him. He is a very high functioning

individual. He's bright. Valedictorian of his high school class. Four point student. He's bright. He has a mental illness. Kevin said I like to go with the flow. So the flow now is flowing toward being interviewed by the Government and their investigators for months.

There was a stable family for decades at the Kaufman House. There were no arrests. There were no hospitalizations. There were no locked wards. There was no seclusion facility. We've had records introduced that are all over the ballpark from the '70s to the '80s to the '90s; but, Ladies and Gentlemen, in dealing with a mental illness, schizophrenia, you can't look at someone's medical records from last week and predict how they're going to be next week. It can't be done. You know, last week they had schizophrenia. Next week they're going to have schizophrenia. But what delusions they're going to have, if any; what hallucinations they're going to have, if any; whether they're going to be psychotic, you don't know. And you can't look back in 1979 and say, aha, look what the person was like in 1979 and therefore they're like that in 2001. Impossible. You can't quote decades old records for current symptomology.

When we talk about abuse as opposed to fraud, think also of the statistics you heard yesterday. How about documentation? This is a documentation case. This is not a classic -- good word -- classic conspiracy. I don't know what

that is. I don't know what classic conspiracy is. I don't know what a classic fraud case is. But I can tell you that most of these involve services which didn't occur. Doctor, when you billed $1200 for an office procedure for John Doe on June 1st of 1999, weren't you in the Bahamas on that day? Well, I don't know, my calendar's not here, I don't really know. Didn't you bill for 26 hours of procedures in a four hour period? Well, I don't know. That's Medicare fraud. Everything that was sent to Medicare, every session was documented and held. You didn't hear anyone ever say it didn't happen, there wasn't a session here, there wasn't a therapy here. The issue is it wasn't good enough therapy. It wasn't good enough therapy. Yeah, it may have been therapy, but it wasn't good enough. There were too many. Well, the Government wants it both ways. Wasn't good enough. There were too many. And not the right kind. Well, you heard Dr. Hough say that I listened to part of these tapes behind me. I didn't see any nude people. And it was pretty good therapy. And that's what we're saying. You watch those tapes. And one thing that -- it's gonna be hard to do. We're all a little embarrassed in this courtroom. We saw these things. And you're strangers. You don't know me. I don't know you. And it's embarrassing to watch these things. It would naturally be embarrassing. It would be embarrassing to watch those movies you see on television with a stranger if you didn't

know 'em. But these tapes are crucial. We thought about -- and I'm sure the Government thought about it -- playing all of them, being here for weeks watching all of them. I don't think His Honor would have allowed us to do that, but we certainly thought about trying. Why? Why? Think about what Dr. Hough told you. And earlier I mentioned just an example to get your thought process going on this. That I used to handle murder cases years ago when I was a young prosecutor. I had to go to autopsies. I didn't like it. I sure didn't like the first one. I threw up, had to leave the room, came back, threw up again, left, came back. But through the years of doing this, I still didn't like it but I got to the point where I could learn what was going on and I could see what the forensic pathologist was doing and I could see how he was determining the cause of death and how he was determining age and identity. There was science going on. It wasn't just gruesome cutting up bodies. There was science going on. And you watch these videotapes. Yeah, some of 'em are nude. A lot of 'em aren't. If Dr. Kaufman's main goal was to see people nude, he would have had 'em take their clothes off all the time. Some of 'em are nude. Some of 'em aren't. It was their choice. You heard that. You heard Mary sitting on the floor talking about she likes to be nude. She was nude. No one ever said Dr. Kaufman forced anybody to be nude, commanded anybody. But the point is: Watch those tapes. Why? Because

there's good therapy going on. Listen to Dr. Kaufman, what he says. Listen to his voice. Ask yourself, oh, okay, is he forcing somebody here? Is he not forcing somebody? Is he threatening somebody here? Is he being -- is he overreaching sexually? Listen. It's not there. The nude people are there; but there's also good therapy going on. And why is it good therapy? Because the proof is in the pudding. It was over 25 years these people functioned in society. They lived together. They were close. They lived there longer than anywhere else. But, well, they couldn't consent to this because they're mentally ill, you know. We'll tell them whether they can consent or not. We'll give you an opinion whether we think they can consent or not. Don't listen to them because they're mentally ill. And as some of the investigators told you, they didn't like what they saw. They inserted their moral judgment. We all have moral judgment. I'm not criticizing. But you don't, if you're an investigator, insert your ideas, your morality, into an investigation. Was there a crime committed? That's the issue. Did Dr. Kaufman commit a crime? Not whether you morally believe what he did was right; whether these are embarrassing to watch. Doesn't make any difference. It's arrogant and condescending to the mentally ill. The Government should be the safe harbor for the mentally ill. Should be the bastion of hope. Not the persecutors.

Kevin testified. He's a very bright guy. Did better at K-State than I did by far. But he said in all of this testimony, some of which was fairly incredible, which we'll talk about, that his family was ripped apart. He even believes that today. His family was ripped apart. All in the efforts of let's help these people because we know what's better. You saw some of the residents sitting around unedited discussing SRS, how they did not want to be licensed. They did not want to live in a licensed facility. The Government writes it off. Well, if it would have been licensed, we would have been able to inspect this and found out what was going on. Well, there's more to licensing than that. Have to be 24 hour supervision. Somebody has to be paid. Meals have to be provided. Kaufman House was never meant to be that. It was never that. These people couldn't have afforded it. I mean, Menninger charged more in a month for Mary H than Kaufman House did in a year. Regulation doesn't make it better. It makes it regulated. All of the families knew it was not regulated. And by choice. You saw the family video. You can watch all of that. It's about two and a half hours. Where there is detailed explanation given about what we think SRS is doing. You saw Mrs. L and the other women leave that. Well, this is the same woman who told you she was so upset that she had that document to sign saying Arlan Kaufman was a good person and a good therapist, that she was so upset when she

had to sign it, she was literally compelled to sign it. Watch the tape. She is going out joking, laughing, having a good time. She wasn't forced to sign anything. And she signed it even away from there in the privacy of her home. We all know about revisionist history. We have a lot of that here. Everybody's jumping on the band wagon now because Arlan Kaufman did a bunch of bad things. There were nude people out at the farm. We knew things were going on over there for 25 years. So let's jump on the band wagon and say, well, I was forced to sign that letter. I was forced to do that. It was against my will. Incredibly, you have eye witness testimony as if you were there because you have the tape and you know what happened.

The residents of Kaufman House, without question, struggled on a daily basis to be functional human beings within their limitations. I don't know that any of you have personal experience with schizophrenia; but Dr. Hough, when he testified, his brother has schizophrenia. Tragically. I mean, here is a man who's eminently qualified to deal with that illness and his brother lives in Canada and can't even come to his own house. It's a terrible illness. But it doesn't effect your intelligence. It doesn't effect your ability to understand what's going on around you, to live your daily life as best you can. Arlan Kaufman helped these people, helped them for decades, longer than anyone else in

their entire history. Most institutions, like Peter, would deal with him a couple of days, that's enough, we don't need Peter around. Peter does violent things. Well, the insurance ran out. Mary, we don't need her around either. Some of these people would, in all likelihood, as you have heard, be living under a bridge if it wasn't for Kaufman House. They couldn't live at home. Not because their families didn't love them. We're not saying that. But their families could not handle their mental illness. They were unmanageable. No one else at the time, the hospitals closed, would take these people. And, you see, I said these people. I don't mean by that those people. You know, listen to -- listen to the context in what this is said. Listen to the comments about retardation. That's retarded thinking. That's a retarded idea. Not you are retarded; you are stupid; you are a retard. That isn't there and you won't find it there. You can spend three weeks lookin' for it.

Masturbation, nude people, genital shaving, close ups. Where there's smoke, there's fire. Why, look at all this. Look at all this. But that is not a crime. There is no crime even alleged in this indictment about pornography, about sexual assault, about battered, indecent exposure. It's not there. The question is therapy. Was there therapy? Not whether there was therapy conducted by people who happened to be nude or happened to be doing various acts. That's not the

issue. It's was there therapy. And each occasion it was billed to Medicare and to the family there was therapy and it was good therapy. But we don't have to prove that to you because the Government has to prove that a crime was committed beyond a reasonable doubt, period. Let's ignore some of the innuendoes that were talked about about Social Security and about taking money from a trust. That's not at issue. What does that have to do with anything? Nothing? And if there were 1000 counts as opposed to 32 counts, that wouldn't make any difference. You can't keep piling count after count after count on the hope that they'll find someone guilty of something. You don't have to agree with the methodology. You don't have to agree with the treatment, whether it was good or bad. It's embarrassing to watch these tapes because they are private tapes. They are therapy tapes. They were never meant to be seen in a court of law. Any more than any family would make or any couple even, bring it down to a couple, would make tapes for themselves, you'd have no more right to watch that than anyone. That's none of your business. It's none of our business. Unless there was a crime that was committed. If there was a crime that was committed, it is your business; but it's not your business if there wasn't a crime. And there wasn't.

Dr. Kaufman tried to prevent those tapes from ever coming to light. He certainly did. Is that a crime? To rely

on your privilege as a social worker with your patients and unless your patients give you authority to release records, he can't release them. And we've got them now and we've looked at them and they've been all over this courtroom. And innuendoes. I know you haven't watched the media because judge told you; but as the judge told 'em yesterday, they're across the street. They're in the courtroom. It's been all over. But the issue is is this a crime. If it's not a crime, then we shouldn't be here. It's not a moral standard we're trying to judge. We're not trying to decide what a non-traditional family is or isn't. At least Dr. Buchele, the Government's witness, said, yes, I would recognize non-traditional families. Yes, I would recognize -- may not agree with it, may have a different philosophy. I would recognize a homosexual couple that were committed as a non-traditional family. I would recognize an expended family that would include blood relatives. Well, these folks were members of a family and had been together some of 'em for 20 years or more. This wasn't a social group where they would see each other over the noon hour or they would play handball together or they would see each other at the Y or on a church activity. They lived together for 20 years. And you heard direct testimony of some of these people and all of them said we were not forced to do anything. It was voluntary. You heard the testimony about nudity. Where did it start? Started with

Barb. Started with Mary. Didn't start with Dr. Kaufman. Maybe he should have said, nope, like Dr. Menninger may have. We'll put a lid on this because we aren't going to have any of this here. We aren't going to have any people being nude in the house. As far as sexual issues, well, you're mentally ill so we can't even discuss that. We're just going to put a lid on it and stop it right here. That doesn't work. That's absurd. People may be mentally ill, but they're sexual human beings and they can do what they want to do in the privacy of their family.

Touching. We've heard a lot about groping and touching. Well, we can characterize things; but instead of putting labels on things, let's look at what actually happened. You be the judge of the facts. Don't let the attorneys characterize things for you. You characterize them yourself. 25 years, we have one instance where Dr. Kaufman touched Barbara T who thought there was something growing out of her vagina. You watch that. And if you think it's groping, that's your call. Government says, oh, it's horrible, horrible, it's groping, it's one of hundreds of occasions it occurred, hundreds. Well, you watch those videotapes. See how many more you see. I submit if there were hundreds, you would see every one of them because they're not there. Once in 25 years there was a touching of Mary T in a group session for a specific reason. There was one touching

of Kevin in a group session for a specific reason. He thought his penis was damaged. Dr. Kaufman looks, says, no, it's fine. Didn't grope him. One touching, maybe, of Mary H. Watch that tape. I'm not sure there was touching, but you call that one yourself. Who inside stated that? Look at me, Dr. Kaufman, look, look what I did during my session. Once. There is no groping anywhere. There is no evidence that ever Dr. Kaufman did anything with any of these people privately. Doctors get in trouble, especially psychiatrists, every day for improper relationships with their patients, for using that transference to their advantage against their patients. That happens a lot. In 25 years, that didn't happen here. In 25 years, you heard the evidence, Dr. Kaufman didn't hug anybody. He didn't kiss anybody. He was never naked with his patients. There's not one prurient sexual suggestion in any of these tapes. Not one. There's not one videotape that was ever made to sale -- for sale. There was never one that was offered for sale. Made a lot about they were found in the bedroom; therefore, they were pornographic tapes. We have forced labor making pornographic tapes. Well, again, if you see pornography to begin with in the indictment, you got better eyes than I do. Why were they in the bedroom? They were in a tub with stuff on top of 'em that were things that were being moved around. There was some in the attic. There was some in storage. There was some in the tub. They were in a bedroom.

My gosh. They were in a bedroom with no videotape or TV. But it's important that they were in the bedroom.

In various category of crimes, we've got conspiracy, forced labor, involuntary servitude, obstruction of federal audit, mail fraud, et cetera. This is a case which is highly visible, Ladies and Gentlemen. Judge has told you there are the media outside the door of this courthouse. They're the media sitting here. You have to have the courage that it takes to be a juror in this case. We've all heard about some verdicts, whether you agree with them or not, like the O.J. Simpson verdict. Oh, my God, how could somebody have done that. Look at the -- look at the evidence. We read about it in the paper. We know. How could somebody have done that in a notorious case like this? Well, because a jury does their jobs is how it's done. There is no one in the world that knows the evidence better than you will in this case. No one knows what's on those tapes other than you. And I would hope that you would watch all of them and you will start to see therapy rather than nude people. The media regards also -- whether it does a good job or bad job is a pretty lousy way to find out what the evidence is in a trial. There's no way other than to be a juror. A juror with courage and conviction and you make your decision based upon the law, based upon the evidence. Not your emotions. Not what you think may be a popular decision in the community. That's terrifying to even

think that might happen. To think that we're expected to do something. That's terrifying. We had that in the 1600s when they used to burn witches because it was popular in the community. This case and some of the evidence may be controversial. It may not be mainstream. It may not be what you expected. But is there a crime? And there is not a crime.

Were these people nude to satisfy the prurient interests of the Defendants? Make nude movies to sell to entertain them and their friends supposedly? Well, nobody -- nobody's friends were ever entertained. Dr. Kaufman said he's not even a member of a nudist group. Listen to these tapes. You heard one when Mary was talking about one. Remember that? And Dr. Kaufman said I think there may be a group in Hutchinson. I don't know what they do, but there may be one there if you're interested. Dr. Kaufman had a library card to get in and do research. You ever done research on nudity? Maybe not. So what? If he conducts research at -- in Florida, at K.U., University of Michigan, well, that's dirty stuff. He shouldn't do that. Researching nudity. Oh, that makes him a nudist; hence, that makes him a promoter of nudity. Hence, that makes him a recruiter for nudism. Hence, that makes him forcing people. Plus he has some pictures that he and Linda took. Boy, that makes him really perverted that he and his wife took pictures in the privacy of their home of

their home experience. Or he took a picture of himself. Or he took pictures of statues that are in the Vatican. Well, I guess you're supposed to walk by these statutes and maybe just glance at them because they are nude. But if you look too long, oh, you're -- you must be a pervert. Well, you heard the testimony about the sexual education group, about people being unaware of their own sexuality. What do you do in sex education? Remember a couple years ago K.U. professor almost got fired? The state was in an uproar because he showed people naked in a sexual education class. There were legislators that wanted to hang him, wanted him de-tenured, wanted him out of K.U. Because he showed films of naked people. There has to be something wrong.

There was no force or coercion. That is the issue. Not whether people were naked and not whether people performed acts on themselves. Was there a crime? Were they forced to do so? It's a catchy phrase when you talk about coercion or force. And think also about Kevin, who testified. Nobody has shown you what we referred to as the banana tapes and the paint brush tape. But, Ladies and Gentlemen, watch those tapes. You will hear Kevin very specifically describe I've been doing this for years, I wanted to do this. If I put it on tape, I wish I could leave my bag in the car. If I knew that if I left this in the trunk of the car I'd never see it again, that would be my goal. I'd like to get something out

of this. Never have to see that again. Never have to go through this garbage. It worked. It was unusual; but it worked. You heard Kevin say I don't do those things any more. You don't sit down and say, Kevin, let's talk about not doing these things any more. Do you think that would be a good idea? Psychoanalytic therapy doesn't work. That videotape of the banana and a paint brush, Kevin was not injured. You know, there weren't any rubber gloves involved, but Kevin didn't use rubber gloves. There was no injury. And it was therapy that worked. Behavioral reversal. He doesn't do those things any more. It's a good thing.

The residents had the support of their family, their friends, their physicians. They were not isolated. How could they be isolated and prohibited from telling their story? Dr. Kaufman said you don't talk about this stuff in the waiting room at a hospital what Kevin looks like or what somebody else looks like or how large Kevin's organ may be. You don't do that. They had vehicles. They had a phone. They had their parents visit them. They had the mail. They were not locked in a closet somewhere for 20 years, never given access to anyone. Look what we found, low and behold, locked in a Kaufman House in Newton after 20 years. These poor people. That's not what we've got. That's not what happened. The more theatrical the allegation, the more you should be suspect of what happened. We can use terms like roaches all over

everything in the kitchen. A house of horrors. That's not evidence. I don't know what -- I think I went to one when I was a kid. The filthy room. The third world prison-like seclusion room. This was a seclusion room much less than they have at state hospitals. You heard about that. That's where you're in the seclusion room at a state hospital without your clothes on. Wasn't Dr. Kaufman that created this. People were not forced to be in there. They were in there voluntarily. There was no injury. There was no force. There was no prolonged nudity.

Now we have Mary being choked by Dr. Kaufman. We've added a twist to it. Remember Kevin was the only one who said that. Barb's own roommate said I never saw that in all the years I was there. I never saw Dr. Kaufman choke Mary. Well, Kevin said 30 times this happened to my best friend at the point of death and I didn't do anything but, you know, those things happened. That didn't happen. Couldn't have happened. Or somebody else would have seen it. Or some doctor would have seen a mark or some roommate would have said something. It didn't happen. But now we've got another twist. Not only was there choking to near death, but counsel said she was forced to lie face down on a urine soaked bed sheet. Where did that come from? Where did that come from? There is no Charles Manson cult-like activity going on at Kaufman House. There is no Stockholm Syndrome where people were kidnapped and

forced. There is no third world seclusion room. Thank you very much Dr. Wetzel for that. Mr. $750 an hour psychiatrist who's never been to a third world prison.

The residents were taken on vacation. They were taken to Colorado. They were taken to Florida and Arkansas. They were taken on vacation. They were taken to church. They were taken to other social functions. What's wrong with that? What's wrong with that? Nothing. It wasn't buddy/buddy let's go out for dinner to Dr. Kaufman, maybe I'll pick up the tab. He drove people to vacations. Wonder if they got any vacations now wherever they are? He took them to church. They worked out at the farm. They splashed in the farm. They helped with some projects. There was not slavery involved in this. There was not involuntary servitude involved with this. Those residents were on vacation. You've got the tapes. They are happy people. You can judge that. Watch out at the farm. They are happy people. Mary, when she was -- strange as it was to watch -- when she was doing her day in the life of Mary H-----, Mary H, when she was on the floor barking like a dog, doing lousy Jimmy Durante impressions and lousy Richard Nixon impressions, she was happy. She was a star. This was happy for Mary. But, oh, it's terrible, terrible. We should see that because she's mentally ill, you know. She can't decide what she wants to do. We know better. We should say, Mary, don't do that. Normal people don't do that, Mary. But Mary

liked to do it. That's a day in the life of Mary H. That's not your day. It's not my day. But it's not a crime.

Did Dr. Kaufman manipulate people over 20 years to oppress them, to put them in a cult like atmosphere? No. Did he make these people better? Yes. Were they functioning better? Yes. Do they have less problems? Yes. Did his therapy work? Yes. Was it controversial? Yes. So what. Was there masturbation used? Yes. So what. Were there people nude that were attending therapy? Yes. So what. Was there genital shaving as some of their private activity? Yes. So what. What business is it of ours? If it's therapy and no one was harmed, in fact, they were helped. These people are not retarded. We have the best evidence in the world on those tapes. Why? Because you were there. You are there.

Remember Officer Coney testified, remember, very strangely, about I talked to Dr. Kaufman. Well, no, I didn't get a signed statement from him. No, I didn't have him use a tape recorder or dictator. No, I didn't do that. Well, why not? Well, we don't do that. We don't tape record these things. Why? So he can go back and make a summary of what he thinks happened. What's the best evidence? The best evidence would be you put a tape down and let's talk. Everything is on that tape. Good, bad or indifferent. But it's there and we don't have to worry about what was said because we know what was said. Just like from the court reporter, we know what's

being said in this courtroom because it's being taken down. We don't have to get together in two weeks from now and listen to somebody tell us what happened. But, Ladies and Gentlemen, that sort of thinking is retarded. Doesn't mean Agent Coney is retarded or he's a retard. That thinking is retarded. It doesn't make any sense. It's not helpful. It doesn't serve any purpose.

These tapes, which are unedited, Government said, well, watch 'em. I agree with the Government. Watch 'em. Watch 'em all. There are a lot. But you'll see therapy. You won't see 100 acts of groping. You won't see many more acts of fondling. What you see is what you get. If they were there, you would have seen 'em by now. And the fact that Dr. Kaufman may still have tapes that the Government missed in their search warrants, multiple warrants. So what. We don't have to prove anything. I would assume that in these hundreds of hours of tapes that things exist the Government's witnesses said exist, they'd be on there. They aren't. Watch the tapes in detail. Listen to Dr. Kaufman. You won't see groping. You won't see sexual abuse. You won't see sexual innuendo. You will see his therapy that he discussed with you in great detail as to what he does.

The elements themselves are not simple for these crimes, but they can be simple when they're elements that have not been proven. Don't have to go any further. Conspiracy,

number one, they have to be two people. So either both Defendants or neither Defendant is guilty of a conspiracy. You can't have one and not the other. You need two to conspire. There is no unlawful purpose that Arlan and Linda Kaufman ever created. They didn't have an lawful purpose to violate the law. Conspiracy stops. It's over.

Did you hear any evidence about an unlawful purpose? The innuendoes, all this stuff happened, so there has to be a conspiracy. But there isn't any evidence of a conspiracy. There's no evidence of unlawful purpose. The fact that they've been married for almost 40 years, worked together, lived together, doesn't make them conspirators. It makes them husband and wife.

The counts involving involuntary servitude and forced labor are crimes only because they exist in the law. This is an important point. If the elements are not met on this, if there was no force, there was no coercion, and the very participants who would have been forced with coercion said there wasn't, there's no crime. There is no such thing in this country, luckily, and hopefully there never will be, as a common law crime. If the Legislature or the Congress doesn't say this is a crime, it doesn't exist. Murder is murder and a crime only because the Legislature has said it is. And they define it very specifically. And if those specific definitions are not found, it's not there.

We didn't hear from Mary H. We didn't hear from Barbara T directly. But we have hundreds of hours of tape from both of them. Watch 'em. Watch them more than once if you want to to see if you missed anything. You heard Mary H in 45 minutes in a very poignant discussion about burning a cup in her room, lighting it on fire with her hair in it with matches in it. Putting it -- setting it on fire to watch it burn. You heard Dr. Kaufman giving her therapy. She was nude. But close your eyes and listen to what was said. Mary, you can't do this. It's dangerous to you. It's dangerous to us. We can't let you do this any more. You told us you did this. Well, I know, but you told us that won't work. The end of that is maybe we can find some behavior that may be kind of fun for you, may have a little risk to it, you could substitute for burning down the house like going out to the farm, running around the paths. We have deer out there. Oh, I love deer. This was a dream to her and that's exactly what she said. Now the Government has turned -- because she's mentally ill, you know, has turned her dream into forced labor in a crime.

Medicare and Medicaid. You heard one witness say if you are a provider of Medicare and Medicaid, you know the law. You are all taxpayers, you know the entire tax code, you're responsible for it. That's absurd. Can we put up the good faith instruction. If neither the provider -- that's, I'll

mention what that is. That's not the Medicare instruction I was wanting. If neither the provider nor beneficiary knew or could have been expected to know that the service or item provided was not reasonable and medically necessary in nature, the Medicare program was liable and provides reimbursement. That came from the manual that we talked about. But I need the good faith instruction. Thank you.

Good faith is an absolute defense to the charge in this case. And, Ladies and Gentlemen, there's fifty some instructions. I can't go through all of them. And I don't mean to by showing only the few that I can that this is more important than another one. They're all important. But this is important because it does talk about good faith being an absolute defense. And it's in your book. While the term good faith has no precise definition, it means, among other things, a belief or opinion honestly held in absence of malice or ill will that an intention to avoid taking illegal advantage of another -- and you can read the rest of that. Ladies and Gentlemen, if Dr. Kaufman believed that he was acting in good will based on the facts, he is not guilty of those charges, including mail fraud, wire fraud, mail fraud, Social Security fraud, which he isn't even charged with. Don't have to worry about that, Medicare fraud. And those counts. On this alone. But aside from the fact the Government hasn't proven their case. On this alone. You don't have to agree whether you

would have done what Dr. Kaufman did, but was he acting in good faith. Or did he make a false writing? Did he provide false documents? Well, no. He didn't give the Government the documents which were contemporaneously prepared from his group therapy. And he doesn't have to. Matter of fact, the law is you don't give psychotherapy notes. And he didn't. He prepared extrapolations because -- so the Government wants you to believe because he used notes, which we know exist because Coney talked about them. Well, I didn't think they were sufficient. Yeah, I saw notebooks and I saw notes, but that wasn't sufficient for me. The fact that a report went to Medicare which was created from other documents doesn't make it a crime. You don't have to send Medicare documents that were contemporaneously prepared. And if that's what Medicare wanted, they should have asked for it. Or if that's what Medicare wanted, they should have responded to Dr. Kaufman when he said what do you want rather than to blow him off. Even if there was Medicare abuse that we talked about, that's not fraud. That's not a crime. Period.

Arlan Kaufman is a thorn in the side of various Government agencies and has been for years. He even sued SRS. And won. How popular did that make him? Well, he didn't win -- when you sue somebody and ask for money and they pay you money to settle a suit, you win. He did things because he thought they were right. He was protecting his patients, his

clients, people he was giving psychotherapy. It wasn't because he was trying to hide things. It would be impossible to hide things in those circumstances. All somebody has to do is say, mom, you know, what's going on. Pick up the phone and say, you know, what's going on, walk out the front door, get in your car, tell somebody at work. This is not a cult like Charles Manson facility that went on. There's no crime.

Just briefly, Ladies and Gentlemen, I do want to go through some of the things the Government told you. And it's not unusual for Government to say, well, listen to what the defense has to say on this. Well, I don't have to respond to them. You have to listen to whether it makes sense. But some of these I do just want to hit before I close.

Seclusion room. Nudity. Well, yeah, that's right. In some circumstances. And some circumstances there wasn't. They had a robe. State hospitals had seclusion facilities where you were nude. You heard Mary talk about that that's where she got this idea about locking up her clothes. It didn't come from Dr. Kaufman.

Command members at 7th Street to take off their clothes. Didn't happen. You won't find it on the tapes. You won't find it from a witness. In fact, the witnesses said just the opposite of that.

Oral sex in group therapy. One instance between Tom A. You heard -- the therapy is there. The incident isn't.

But the week before or so, the two engaged in a brief fellatio. They had been -- had a relationship before. They did it. They were not forced to. Dr. Kaufman didn't order it. It happened. They talked about it. Why? We want to end this relationship. We don't think it's good. You got that tape. See in the hundreds and hundreds and hundreds of hours if you see Dr. Kaufman forcing people to have fellatio. You won't, because it's not there.

Kept people from spilling the beans for all these years. What? How did he do that? Did he lock 'em up in a closet? Did he prevent them from talking to their parents? Prevent them from talking to their doctor? He's not a svengali. He didn't hypnotize anybody.

Stomach turning videos. Well, they aren't. They aren't. They are acts, Ladies and Gentlemen, that happen hundreds of thousands of times daily in this country. They're not stomach turning videos. You watch them. There are three instances of touching. Whether you approve or don't approve, look at the circumstances under which they occurred. It was not in somebody's room. It was not late at night. It was not one-on-one. There was no sneaking in to sexually molest anyone. Watch where they occurred.

Took turns shocking Peter in the testicles with a stun gun. That didn't happen. There wasn't testimony to that. Peter himself testified I came at Dr. Kaufman with a

knife. Yeah. I would have been shocked, too. I would have done it myself. Peter testified to that. And it was in his words, a pinch. It was a deterrent, back off, Peter. It wasn't punishment. It wasn't, all right, let's see what Peter did yesterday and we're going to bring the stun gun in and punish him. That didn't happen. Read the memo and look what happened. It was a time that something occurred. Peter was zapped with this pinch thing. No one else ever was. We don't even know where that thing is now.

Threats to go -- we're going to put you in a state hospital. There are discussions about what facilities are available; but in 25 years, nobody ever got sent to a state hospital unless they got to a hospital for temporary care. There was no threat. If there was a threat, why didn't it happen in 25 years?

Family was intimidated. No. We've got more revisionist history in that. You can see the tapes. Watch 'em. Watch the expressions. We've all talked about this. Expressions on people. Listen to what's going on. There was no intimidation.

Arlan Kaufman never once gave an explanation of his techniques. Well, he didn't have to. So what. He's not an experimental therapist. He's not writing a treatise for his Doctorate. That's over. So what. He never talked about it before. Well, he gave a 180 page deposition in 1991.

Ladies and Gentlemen, as the Court has advised you, the Government has to prove this case beyond a reasonable doubt. When this case is over, whatever your decision is, and I know it will be based upon the evidence and the law and not your emotions and not spins that people want to put on things, but based upon the law and the evidence, you will find that the Government has the overwhelming burden of proof in this case, the highest in the world, of guilt beyond a reasonable doubt. Hasn't come close. And when you strip away all the adjectives, all the outrage about how horrible these things seem and you look at what happened and look at the therapy that Dr. Kaufman provided, look at the results, you'll find, Ladies and Gentlemen, that Dr. Kaufman is not guilty of a thing charged in the indictment. Thank you.

THE COURT: Thank you, Mr. Haney. I think that we'll take another short recess at this point, Ladies and Gentlemen. Again, about ten minutes I think. Remember and heed the admonition, please.

(Recess.)

THE COURT: Mr. Joseph, you have 32 minutes. Would you care for a warning?

MR. JOSEPH: Yes, Your Honor. If I get within five minutes of that 32, I'd appreciate it if you would give me a warning.

THE COURT: I'll be glad to.

MR. JOSEPH: Thank you, sir. Good afternoon. It is afternoon now. Let me take a moment first to start off by joining Mr. Haney in thanking you for your service as jurors in this case. I know some of you have had to travel a long ways to get here and go home every day and we appreciate that. We know the burden that you have to live with during that time, the length of time in this case that a trial is ongoing. I know you all now realize, of course, that while you've had to wait around for us an awful lot and go in and out of the courtroom an awful lot, within a very few minutes you're going to get to make us wait as long as you want to make us wait. And we'll be waiting patiently and anxiously for you to tell us what we get to do. It's your show after we're done with these closing arguments.

Let me give counsel for the Government Ms. Parker maybe a left-handed compliment of sorts. Her opening remarks to you were the finest example I've ever seen in a courtroom of a certain rhetorical device, a rhetorical device known as the big lie. It goes this way. If you say something often enough and loud enough, people eventually are going to believe it. It's a device that was first labeled that because it was used by a fellow in Germany in the 1930's and it was known as the big lie. Very simply: Say something often enough and loud enough and people will believe it. I gave up counting at 100 the number of times that Ms. Parker said Arlan and Linda

Kaufman did this, Arlan and Linda Kaufman did that, Arlan and Linda Kaufman did the next thing; the Defendants did this, the Defendants did that, the Defendants did the next thing. Without once referring to a single piece of evidence that showed that Linda Kaufman did any of those things that Ms. Parker said Arlan and Linda Kaufman did. It just wasn't there. That's the big lie. The Government doesn't want you to notice the weakness of its evidence against Mrs. Kaufman. They want you to be somewhat overwhelmed by the evidence against Dr. Kaufman and let it slop over and effect Mrs. Kaufman by saying over and over and over again, Arlan and Linda Kaufman did this, did that, did the next thing, and just hope you don't notice the evidence or don't notice Instruction Number 5. Let me put that up on the screen for you.

This may be one of the most important instructions you have in this case as it relates to the mechanical process by which you are to make your decision. This is Instruction Number 5. And what it says is: Separate crimes are alleged against both Defendants in each count of the indictment. Under these instructions, you may find one or both Defendants guilty or not guilty as charged on each of the counts. You must consider the charges against each Defendant separately. Separately. Your verdict concerning one Defendant should not control your verdict regarding the other Defendant. Then the Judge goes on in the next paragraph and gives you certain

mechanics of how you need to approach this and how you need to apply this particular rule. And, essentially, what the Court has instructed you is that you have to evaluate the evidence and the instructions against the Defendant Arlan Kaufman first and then separately go back through each instruction and apply each one to the Defendant Linda Kaufman separately and evaluate the evidence in this case as it applies to her. You divide them. You separate them. All right. Let's look at all the evidence that applies to Dr. Kaufman and the instructions; and then we go back and we do it again and we look at Linda Kaufman. It's the only way that in a case like this where you have two defendants, you can give them both a fair trial. You have to look at the evidence against each one of them separately and evaluate it separately. By saying over and over and over again that the Defendants, the Defendants, the Defendants did this, did that, doesn't make it true. The only thing that counts is this. It's what you heard here and what's on that table there. This is the evidence in the case. It's not how many times the Government says that Linda and Arlan Kaufman together did something. It's what the evidence tells you Linda Kaufman did or didn't do. It's what the witnesses told you Linda Kaufman did or didn't do is what you must base your decision on. That evidence, that evidence alone, and not cute and unfortunately sometimes effective rhetorical devices like the big lie.

The question you have to decide is one that's fairly straightforward. We've heard it all over and over the past five weeks. The Judge has said it to you many times. The Defendants are presumed to be innocent and the Government has the obligation to prove each one of them guilty on each element beyond a reasonable doubt. That's Instruction Number 29. And it states what the burden of proof is. Toward the end of the first paragraph it says: The Government has the burden of proving the Defendants guilty beyond a reasonable doubt; and if it fails to do so, you must find the Defendants not guilty. It goes on later to say: A reasonable doubt is a doubt based on reason and common sense. Now, while that all sounds simple enough, it really isn't. It isn't because it's very unnatural to try to decide something on the basis of a standard set up like that. It's not how we do it in the real world. When you're in the real world, you don't set up a standard and say has somebody proven to me beyond a reasonable doubt or beyond any particular standard you want to establish that something is true or not true. We all hear things and we come to conclusions based on what we hear. Sometimes we come to a conclusion by saying, well, you know, that looks right, I think that's probably true. Sounds good. You know, common sense says, you know, probably that's how it ought to be, they haven't shown me otherwise. Those are the kinds of things we do in daily life. But that's not what you do in a courtroom.

The test you have to apply when you leave this courtroom and go back to your jury room and begin deliberating this case is a very simple one in theory, but one you aren't used to applying and one you have to keep in mind all the time you're back there. Linda Kaufman doesn't have to prove anything to you. She doesn't have to offer a piece of evidence. She doesn't have to convince you of her innocence. She doesn't have to do a thing. The Government has to do it all. All of it. The question you have to ask yourself is: Has the Government proven to me, to each of you, beyond a reasonable doubt from the evidence in the courtroom that Linda Kaufman is guilty of the crimes that she's charged with. Sounds easy, doesn't it? Has the Government proven beyond a reasonable doubt that Linda Kaufman is guilty of the charges alleged against her? The problem is people like to be detectives. They like to say, you know, gosh, oh, gee, she had to know. I mean, she lived with this guy for 40 years. She had to know. She's his wife. Just like certain witnesses who testified presumed and assumed certain things because she's the wife, she has to know. Those are conjectures. Speculations. Assumptions. Presumptions. And they have nothing to do with the test that I told you about. They have nothing to do with that test that's on the screen. What you apply is what you heard here from the witnesses and what's on that table to make your decision. You can't say, hey, you

know, probably, or I guess, or how could she not know, how could she not be involved. That doesn't work. The Government has to prove she did know, she was involved and it was wrong. That's the test you have to apply, the rule you have to apply when you evaluate the evidence. Please keep that in mind, as I'm sure you will, as you go through your deliberations. It will be real easy to sort of slip into the natural kind of consequence of how we live our ordinary lives and think of yourself back there, she had to be involved, she lived with the guy for 40 years, she went over every day to drop off medicine and get medicine out, she had to know everything that was going on. Pure speculation. Not proof. That's speculation. It's not evidence.

The Government's real claim against Mrs. Kaufman became clear at the end of Ms. Parker's opening remarks to you when she started talking about the instruction on aiding and abetting. What she told you made it very clear, I think, that the Government intends to proceed on a simple theory that Mrs. Kaufman aided and abetted her husband in the commission of these crimes. When she was talking about aiding and abetting, she always used the pronoun she. Never once he or she. Always used the pronoun she.

Instruction Number 25 and 26 are the important ones when it comes to the doctrine called aiding and abetting. It's a rule. It's really a simple rule of law. Instruction

Number 25 in the second paragraph sets out the rule. The law makes it a crime to intentionally help someone else commit a crime. That's not hard to understand. You know, the get-away driver is just as guilty as the bank robber when he takes him away from the bank. Anybody who helps somebody else commit a crime. You give somebody a gun knowing that they're gonna take it and go rob a store, you're guilty of aiding and abetting them. If you give them a gun when they say they're going hunting, you're not guilty of aiding and abetting. It's simple as that. You have to know. It's a specific intent crime. You have to know that this person is committing a crime and that you are intentionally helping that person to commit the crime. That's what aiding somebody and abetting somebody to commit a crime means. It may be best expressed in the Court's Instruction Number 26, and the shortest part of that instruction. If you look down in the second paragraph, right at the bottom of that second paragraph where the Court says: Whereas, aiding and abetting depends on a showing of conscious participation in a criminal act, that is, knowingly assisting in the performance of the criminal act charged.

You have to assist and you have to know you're assisting. Just because you do something that somebody can use to further a crime that they're committing doesn't make you guilty of the crime by aiding and abetting them. You also have to know, just like the example I gave you before about

the gun to go rob a store or gun to go hunting, that in fact the gun is going to be used to commit a crime. It's not just enough to give them the gun. You have to know consciously, intentionally, that you're helping to commit a crime. That's the Government's prosecution theory against Mrs. Kaufman. That she aided and abetted her husband. That she assisted him consciously, knowingly, to carry out crimes.

Let's just touch on a little bit of the evidence. Only have a limited amount of time, so I'm just going to touch on just a little bit of the evidence to see whether there is any evidence to support that kind of a theory. Let's talk first in reverse order that Ms. Parker did it of obstructing a federal audit and making a false statement.

These two counts, Counts 32 and 33, all involve essentially the same action, the same activity. In response to the request by Kathy Smith in her form letter to Dr. Kaufman for records concerning the billings that they had sent in at some earlier time, on February 21, 2001 -- or at least the documents are dated February 21, 2001 -- those diagnostic statements were sent in, the social histories were sent in, those handwritten progress notes were sent in by Dr. Kaufman to Blue Cross & Blue Shield, Kathy Smith. There's no evidence at all -- nobody said that Mrs. Kaufman was involved in mechanically preparing or sending those documents. Not there. Nobody said that. But there is testimony from a Government

witness on that subject. The Government witness was Kathy Smith. And she sat right here, the Medicare auditor, and she told you in response to questions by Mrs. Treadway: It was my impression that Mrs. Kaufman was involved in sending these records to us. I talked to her on the telephone two times. It was my impression that she was involved in sending these records. Cross-examination may be the greatest engine ever invented for finding the truth. That's been said many times by trial lawyers and it's something I firmly believe in. I conducted cross-examination of Mrs. Smith to find out what this was that she based her impression on and what was said in these two telephone calls. Remember what she said? Well, I talked to her twice on the telephone and then I remember both times on the telephone she told me I can't send you these records, you'll have to talk to Dr. Kaufman. I won't send you these records, you'll have to talk to Dr. Kaufman. She said she wouldn't send them, that she couldn't send them, and referred Mrs. Smith to Dr. Kaufman. She in fact then did talk to Dr. Kaufman on the telephone; and after she talked to Dr. Kaufman, the records showed up at the Medicare office in Topeka. But still she insisted it was my impression that Mrs. Kaufman was going to be involved. And I asked her, well, do you keep notes or memos or records of these telephone conversations, what you said and what the other person said? And Mrs. Smith said, yes, I do that, it's part of my job to

write down what was said. Did we ever see those memos? No, we didn't. Why didn't we? If those memos had contained anything from Mrs. Kaufman other than I can't send you these records, Mrs. Smith would have pulled them out of the file and slapped them right here and said, let me tell you what she said. They would have been right here. And what you may fairly conclude from that is that there is nothing in those memos other than I'm sorry, I can't help you, I can't send you any records, I won't send you any records, you'll have to talk to Dr. Kaufman. And on the basis of that evidence, that's it. There is nothing else now on those two counts regarding Mrs. Kaufman. On the basis of that evidence, Ms. Parker told you with regard to those counts at least 20 times in her argument on just those two counts, Arlan and Linda Kaufman sent on February 21, 2001, the records to Medicare. And the only evidence is she said she couldn't be involved, she wouldn't do it and she didn't do it. They got there only after Mrs. Smith talked to Dr. Kaufman. And yet the big lie is, well, they did it together, they did it together, they did it together, they did it together, they both did it. But there is no evidence to suggest that they both did it other than the evidence which suggests, in fact confirms, they didn't both do it.

Concerning the Medicare and mail fraud counts. Quite a few counts, the bulk of the counts by which you would

add them up in the indictment. The Government's evidence against Mrs. Kaufman is so flimsy in this connection that -- that it wasn't until Dr. Kaufman testified that there was any evidence that Mrs. Kaufman even filled out the forms. Remember in my opening statement I told you she filled out the forms? And I was sure expecting some Government witness to get up there and say Mrs. Kaufman filled out those HCFA 1500 forms during the Government's case. Nobody did. They don't even have any evidence themselves to show that she filled out the forms, the 1500's. The only evidence came when Dr. Kaufman testified that Mrs. Kaufman indeed filled out the HCFA 1500 forms based on the information that he provided to her, the CPT codes, the diagnostic codes and that sort of thing. She indeed did fill out the forms. Well, okay. She must be guilty of something, she filled out the forms. And if Dr. Kaufman sent in forms which contained fraudulent matter in the sense that the therapy wasn't reasonable and necessary, there wasn't sufficient documentation, hey, you know, the typist has got to be guilty, too. After all, she's a nurse. She should have known that this therapy, so-called therapy, was not necessary and proper, that there wasn't sufficient documentation. She should have known. She's a nurse. She's his wife. She was there.

Well, if it's so easy to know that, you just gotta ask yourself a simple question. Why did it take five expert

witnesses to tell you that? Five of 'em up here testifying. If it's so easy to know, why didn't Blue Cross/Blue Shield have a nurse look over those records that Dr. Kaufman sent in on February 21, 2001? Hey, let's get a nurse. I'll bet you we can find a nurse a lot cheaper than Dr. Wetzel up in Omaha at 750 bucks an hour. I'm sure we can find somebody cheaper than that. Let's just have a nurse look over all these materials and tell us whether there's proper documentation and tell us whether what happened here is necessary and proper. Why should she be held to a different standard than the Government holds you to? They don't expect you to know. It's not just kind of common sense that this is bad stuff, that this is improper therapy. They didn't expect you to know it. They had to put on five witnesses: Dr. Wetzel, Dr. Menninger, Dr. Buchele, C W Frankenfeld -- and somebody else I'm not thinking about right now. And if it took that many experts, none of which were nurses, by the way, to convince you that this was improper therapy in the Government's mind, why should Mrs. Kaufman be held to some standard other than that standard?

She had an expert, you know. She did. Mrs. Kaufman had her own expert. Dr. Kaufman. Man she had been married to for 40 years. Man she trusted. Man she relied upon. The man who basically said this is all okay. All those other people the Government says trusted him, this powerful, intelligent,

dynamic figure. Why shouldn't his wife of 40 years trust him? God knows I hope my wife trusts me. I know you hope all your spouses trust you. Why shouldn't she trust him?

Let's talk briefly then about forced labor and involuntary servitude. Early on in the case one of the Government's witnesses testified it was that witness's impression that Mrs. Kaufman was the enforcer, that she enforced the rules. And on cross-examination I asked that particular witness who lived there in the Kaufman House, what rules did she enforce? Couldn't think of any. That same person said, well, she's on the team, she's part of the team. Well, okay. Why do you say that? I mean, you lived there all those years, why was she part of the team? On what do you base that statement? Well, because I remember back in the 1980s she used to go over to the 8th Street house when we had some of our problem solving groups and she would sit in on those sometimes. So she obviously was part of the team. That's the evidence at this point. Impressions. You know, she's the enforcer. Impressions. She's part of the team. Don't matter. They don't count. That's not evidence. What's evidence is what happened, what the facts are, who can tell you precisely what actually happened. Not conclusions. Not impressions. Not speculations. Anybody tell you that Mrs. Kaufman made people go into the seclusion room naked? No. Anybody tell you that she made anybody stay in there or

that she took their clothes away or that she unlocked them and let them out? No.

I kept -- my function here basically in this trial was to sit over there and write down notes waiting for somebody to say something involving Mrs. Kaufman. I wrote down a lot of notes. All the witnesses who testified in this case. Who said that Mrs. Kaufman enforced any rule? Nobody. The best Ms. Parker could say on her opening statement was -- the best -- on November 16th, 1999, Mrs. Kaufman interjected and interrupted when residents were being interviewed by then Captain Murphy, now Sheriff Murphy, and Laura Lautt and Patsy Person when they were at the 7th Street house to conduct an investigation following the incident on November 8th of 1999. She was there to make sure they didn't say anything bad. And remember Captain Murphy and Laura Lautt said, well, she was communicating with them somehow. She was signalling somehow to them. Something was going on. Think back about the physical layout of the house. You've got a picture of the house in evidence. It's one of the Government's very first exhibits. On 7th Street. It's pretty clear that Mrs. Kaufman for most of those interviews that lasted maybe an hour, hour and a half, was sitting on the steps and the person being interviewed was standing behind her and the people asking the questions were on the sidewalk in front and the person was talking to them. Kevin described that for you as happening

that way. Laura Lautt described it as happening that way. Captain Murphy had a different description. He had everybody kind of roaming around up on the porch and said that, yeah, one point it was possible Mrs. Kaufman may well have been sitting on the steps. But I think what Kevin told you and what Laura Lautt told you are probably pretty accurate. Mrs. Kaufman was sitting on the porch for most of that time. Now, if you think about it when you look at that picture, how was she communicating with anybody? Sheriff Murphy didn't see any form of communication. Laura Lautt didn't see anything; but, oh, she had to be doing it, we're just sure she was. But they didn't see anything and they can't identify anything for you. And so they said, well, the residents, each one for that hour and a half or so that we were interviewing them, were continuously looking at Mrs. Kaufman, who -- if you think about how they were sitting there -- had to have had her back to the person standing behind her on the porch. They may have looked at her, but they couldn't see her face. And so what did she interject? Remember I had Laura Lautt on the stand on cross-examination -- and you may have noticed I was a little irritated with her. I kind of let my tone get out of hand there with her when I was cross-examining her, which is very unprofessional and I shouldn't have done it. She testified on direct examination about this interjecting and interrupting. I believe she said two or three times with each of the

residents. And I had her reports. Question and answer. She wrote question, answer, question, answer, question, answer. We had her written reports. And so I went over those things with her on cross-examination. Well, what was it that actually happened? What was actually said at these interruptions and interjections? And we went over those. Yeah, well, they were all true. Whatever she said turned out to be it was all true. And what --

THE COURT: Five minutes, Mr. Joseph.

MR. JOSEPH: Thank you. And what did Captain Murphy tell you? He told you that he got honest answers to all of his questions and he thought everybody did the best they could. Is there any other time that you can think of that the so-called rule about don't talk to anybody outside was ever enforced by Mrs. Kaufman? The only time she was ever confronted with that rule, she brought all the residents out and for an hour and a half they talked about the incident at the farm with the investigators. That's hardly what I would call enforcing a rule to keep what happens inside the Kaufman House secret from the outside and don't talk to the police.

What I want to do before I conclude, Your Honor, and this may go over one minute if you don't mind --

THE COURT: I don't mind.

MR. JOSEPH: -- is play six minutes of little clips from various tapes that are the main clips involving

Mrs. Kaufman. And they're each labeled by a little lead-in that tells you what exhibit they come from and what tape number they come from. And I'll do a little narrating.

This first clip is Exhibit 113. You've seen this one already. That's Mrs. Kaufman sitting there reading the newspaper. Who's so involved in this sexual experience that she gets bored and leaves. She never even looked at Mary H. 30 seconds she was in that clip.

This is in Colorado. You'll see Mrs. Kaufman here in a second. There she is. Playing cards with the guys.

This next tape from Exhibit 102, best we can tell from the contents of the tape was in 1998 or 1999, in September when the Monarch butterflies migrate through Kansas. There's Mrs. Kaufman in the bottom lefthand corner of the screen now. You'll see her again in a second.

I think you've seen part of this tape already. This is on the farm in September, according to the date on the tape, September of 1998. And this is -- I think Mr. Haney referred to them as moving cinder blocks. And, of course, that's Mrs. Kaufman moving cinder blocks.

And I believe you've seen part of this one also. This is also 1998 or 1999 and Mr. -- I can't remember his last name, the guy from the Attorney General's office, McManigal, Mr. Phil McManigal testified about this. He mentioned that there was a tape in which they were working on a wheat drill.

And that's this. And, oh, yeah, that's Mrs. Kaufman there working along with Kevin and James on the wheat drill.

This is also at the farm. The person on the left wearing all the clothes, by the way, is Barbara T. And that's Mrs. Kaufman painting a board with Barbara T.

And this last clip is at the farm also and that is Barbara T and Mrs. Kaufman putting sun screen lotion on her back.

In the end, Ladies and Gentlemen, the question you have to decide from that sort of evidence is whether Linda Kaufman is the slavemaster or the slavedriver that the Government portrays her as, or whether she is the compassionate caring professional person that Metta L, the mother of Peter L, talked about; the doctors that she worked with to make sure that the patients got the correct medication and they got the right information; and the woman who Lee R said saved his son's life, Tom R. It's as simple as that. Thank you.

THE COURT: Thank you, Mr. Joseph. All right. The Government may conclude.

MS. TREADWAY: Judge, do I have 30 --

THE COURT: 30.

MS. TREADWAY: And would you give me a 10 minute please.

In our final argument I will be asking you to

evaluate the defense claims on the basis of the evidence. Most of which Mr. Joseph evidently missed. And that evidence will show you that those Defendants -- those defenses are unsound, signifying nothing, nothing worthy of belief.

The Government told you in opening statement what the evidence would prove and the evidence did prove everything that we told you. To the contrary, the evidence has not supported what the Defendants told you would be true.

Mr. Haney told you that the evidence would not show that Arlan Kaufman physically beat mentally ill people. In fact, the evidence proved that he beat Peter, Barbara, and took Mary crying up the stairs in a full Nelson, as Jerry told you.

Mr. Haney told you that the evidence would not show anyone being forced to perform heavy manual labor on the farm. That it was just busy work. In fact, the evidence has proved that working at the farm was not voluntary. Kevin felt forced to do manual labor that you saw on the videotapes. Labor that was certainly not busy work. Jonathan told you he cooperated so he would not be sent to a nursing home or an institution. James told you he did it because others were doing it.

Mr. Haney told you that the evidence would not prove Arlan Kaufman made sex films. In fact, the tapes are full of sexual conduct. Talking about it or performing it for the cameras. Not just one camera. But sometimes two. Constant

zooming in for close ups of genitals. And the conclusion to be drawn from this evidence is clear: The Defendants found them titillating. The Defendants found them entertaining. It was for their prurient interest that they were made.

Mr. Haney told that you nobody was locked in a room for weeks. In fact, you heard precisely that testimony from multiple witnesses, including witnesses like Jerry and Jonathan, who the Defendant Arlan Kaufman called in his own defense.

Mr. Haney told you that the residents made their own rules, Arlan Kaufman didn't. In fact, you heard testimony that the rules were Arlan's even down to when dinner was served. 6:00. Not before.

Mr. Haney told you that the residents were not isolated, not controlled, and not in a concentration camp. In fact, the testimony and the videos show you how isolated and how controlled the residents were. And as Dr. Wetzel told you, the seclusion room was worse than a third world prison. And none of us have to go to one to know what one is.

Just as those claims in opening statements did not ring true, neither have the defenses. The Defendants want you to believe what is, frankly, unbelievable. They want you to believe that there was an amazing confluence of coincidences in Newton, Kansas; that a bunch of adult schizophrenics who were interested in nudism just happened to end up at the

Kaufman House and that they just went along with it without question or concern. The Defendants want you to believe that these mentally ill people just decided to get together and masturbate and shave each other's genitalia and they were just lucky enough to be there to capture it on videotape. There's only one word for that proposition, Ladies and Gentlemen. Absurd.

The evidence has shown that the Defendants used nudity as a punishment, as a means of control, beginning in the very earliest years in that seclusion room. Also, to keep Mary and Barbara in the house, they locked up their clothes. As a natural consequence, they saw these people in the nude. And you know what? They must have liked it. As every former resident testified, it wasn't their liking to be nude. They would never have been nude if it hadn't been encouraged, if it had not been suggested repeatedly that nudity would be therapeutic and that nudity would provide them a release from their tormented delusions. As James testified, yeah, that was the philosophy. But it's a philosophy that's supported by nobody but the Defendants. The evidence has been clear the Kaufman House residents, these vulnerable fragile human beings who suffered from the cancer of mental illness, did not choose to be nude. That was the Defendants' decision. And it was a decision imposed upon the victims as a means of control.

How can it be, Ladies and Gentlemen, that Barbara

chose to be nude in 1991 when she is on those videotapes for years before that nude? In his opening statement Mr. Haney told you that you would hear no evidence that the Defendant Arlan Kaufman told anyone that nudity would make them better. But you did hear such evidence from Kevin, Jonathan, James. And you can hear plenty of that evidence on the videotapes. He told the residents repeatedly that the nudity would help them with their anxieties, their relationships. It would help them escape their isolated lives. He told them it was a privilege to be nude; it was a big step. The Defendants were the ones interested in nudity. They were nude at the farm. They vacationed at nude resorts where they secretly videotaped other nudists. They took pictures of themselves and each other in the nude. The Defendants created their own little nudist colony at the Kaufman House in Newton, Kansas. The Defendants actually want you to believe that the Kaufman House residents consented to the nudity, consented to being videotaped performing sexual activities, consented to working for no pay at the farm in the nude for only the Defendants' benefit. But you saw for yourself how severely mentally ill the victims were.

The victims themselves became exhibits in this case. Exhibits of how easily they could be convinced and how coercion came in the forms of seclusion, locked up clothes, zappers, consequences, threatened alternatives, negative

confrontations and ridicule if you didn't go along with the program according to Arlan and Linda Kaufman. If Kevin, who was so obviously intelligent and high functioning, was fragile, as Dr. Hon testified; if Kevin was capable of having his will overborne by the Defendants; if he bought into the program, as he called it, what chance did sweet cooperative Jonathan have? What chance did soft spoken James have. Who still struggles with the voices. Who was barely able to understand what was going on in this courtroom. What chance did Barbara and Mary have? When faced with the real evidence about Barbara and Mary, even Defendant Arlan Kaufman's own expert George Hough was forced to change his opinion and agree with Dr. Menninger and Dr. Buchele. The Kaufman House residents could not consent to what can be seen that they are being made to do on those videotapes. There was no consent. There was only coercion.

Let's talk about intent. One of the hallmarks of intentional conduct is what you do to cover it up. We have four such hallmarks in this case. We have false records; the code of silence; the dance of defenses; and the shell game. When people create false records to cover their tracks, we know they are acting out of guilty knowledge. Not in good faith. They are trying to make sure they don't get caught. Dan Coney and Kathy Smith both told you that Linda Kaufman told each of them she was responsible for filling out those

false HCFA forms. But it wasn't enough that they billed for more therapies than necessary and for activities that were nothing close to being therapy and for therapy that the Defendant himself never was able to describe. No, the Defendants did not stop their fraud there. They had to create false records for Medicare's audit. And I say the Defendants, Mr. Joseph, because in a conspiracy, the act of one conspirator is the act of all conspirators. The statement of one conspirator is the statement of all conspirators. The records did not exist. And so the Defendants created them after they attended that Medicare seminar to bone up on documentation rules. Why? To keep the money flowing from Medicare. They knew their claims would not be paid if there were no documents.

And this privilege issue is ridiculous. As Kathy DeHart and -- Kathy Smith and the HCFA form clearly tells you, when you submit a claim to Medicare, you waive a privilege as a patient. Their document efforts were in vein. Even giving them the benefit of the doubt, as Dr. Wetzel did, the documents were woefully inadequate. In fact, they were like no therapy notes Kathy Smith, Dan Coney or Dr. Wetzel had ever seen. And they described activities that Medicare should not have paid for.

The code of silence. To make their criminal enterprise succeed required the ultimate form of control which

was gained through the code of silence. Mr. Joseph told you in opening statement that Linda Kaufman did not want any secrets. Again, the evidence has not supported this proposition. Not in the least. Mr. Joseph, look at Government Exhibit 214-G, something your client wrote about silence. The evidence is that once the cat was out of the bag, once the residents were seen at the farm in the nude in November of 1999, the Defendants could no longer deny what was obvious; but they never told anybody about the nudity before November, 1999, and it had been going on then for over a decade. Defendant Linda Kaufman told Sheriff Murphy and Laura Lautt on November 16, 1999, that there was no nude therapy at the house. That was false. And Defendant Linda Kaufman knew it. When the victims visited their psychiatrist and talked about what was going on in the Kaufman House, the doctors chalked it up to delusions. And Linda Kaufman, of course, never said a word. When state officials requested information, the Defendants gave none. Instead, they were arrogant, defiant, confrontational. The Defendants fought SRS all the way to the Supreme Court to resist being licensed. Why? So they could avoid SRS having access inside the Kaufman House. And even after the Supreme Court told them you need to be licensed, they never complied.

The Defendants acted inconsistent with wanting anyone to know what was happening within the bleak and rotting

walls of Kaufman House. If that seclusion room was so appropriate, why did they make all that effort to make it disappear before SRS showed up? Kevin told you about that. Both Arlan and Linda Kaufman drilled the code of silence into the residents. Both Arlan and Linda Kaufman chastised and punished those who dared to talk, who dared to speak the truth. Every witness told you that that lived at Kaufman House. They not only drilled it, they practiced the code of silence themselves. If nudity and all this sexual behavior was therapeutic, why is it such a big secret? You heard no explanation of that in closing arguments. There's no question, Ladies and Gentlemen, the Defendants created and used and enforced their code of silence to keep out anyone and everyone who could have rescued the Kaufman House residents.

The next hallmark of intent is the inconsistent positions that the Defendants have taken over time. Their dance of defenses. The Defendants tell whatever story they need to, depending on the audience. It is these inconsistencies that dramatically indicate the Defendants were well aware of their criminal activity and acted inconsistently with innocence. For example, when they deal with law enforcement and SRS, they told people Kaufman House residents are independent adults who can think and care for themselves. Leave 'em alone. Yet at the very same time, the Defendants told Medicare, told Social Security, told a judge, these same

individuals are so sick they need constant, more than twice daily therapy. They could not manage their own money. They can't make decisions on their own. They can't have it both ways. When the nudity was out at the farm in November of 1999, the explanation was this activity was about body acceptance and body shame. But on cross-examination Mr. Haney wanted to make the point that therapy was a law enforcement term. Yet Arlan Kaufman's own written explanation of the farm activity says it was therapy. And now they want you to believe it was like horticultural therapy at Menninger's. Well, which is it? Therapy or not? They can't have it both ways.

Then it wasn't body shame. That wasn't the reason for the nudity. Oh, no, it's because the residents suffer from sexual dysfunction. And, oh, if that's not enough, then there's sexual offenders. Then it was behavioral modification therapy. Then it was cognitive rehabilitation therapy. Then it was family therapy. But every Government expert told you that the Defendants were not conducting any of these recognized forms of therapy. And all of this talk of therapy comes from a completely made-up premise. Made up by the Defendants to rationalize their crimes. The Defendants transformed their victims' schizophrenic delusions into sexual dysfunction so that they could claim what they did was therapy. Where is the evidence that Barbara had a sexual

disorder? She had delusions that were a symptom of her schizophrenia which the Defendants never treated. Where is the evidence that Mary had a sexual disorder? Dr. Menninger told you running outside nude is not exhibitionism. It's not a sexual disorder. Where is the evidence that Kevin had a sexual dysfunction? He had problems because of childhood sexual abuse. Treat the illness; do no harm. What was Jonathan's sexual dysfunction? He had absolutely none. Poor James. He had delusions about being romantically involved with television personalities and would call them on the phone. So he has a sexual disorder. No, Ladies and Gentlemen, he's a schizophrenic. He suffers from delusions.

Probably one of the biggest indications of intent is the financial shell game the Defendants played just 11 days after Dan Coney and the other agents were at their house conducting that search and seizure and hauling out those videotapes to Defendants' surprise and chagrin. Just 11 days after the search, the Defendants conveyed the farm and all the Kaufman House properties to their children. The Defendants did this because they knew they would owe the $216,000 to Medicare and so they attempted to put their assets beyond the Government's reach. That spells intent in big red capital letters, Ladies and Gentlemen.

All good stories have red herrings thrown in to misdirect your focus. And we've had a few red herrings show

up in the case for the same purpose. The Defendants want you to find they didn't do horrible things; but if they did, they did them too long ago for it to matter. But it doesn't matter. Because the Defendants were engaged in continuing crimes. A fraud scheme into 2001; a conspiracy into 2004. As Defendant Arlan Kaufman himself testified, it took him several years to gain his victims' trust so he could tell them what they were thinking. As every single victim witness told you, I did whatever Arlan told me to do. That kind of absolute loyalty is only built over time. But it is the kind of loyalty that led to the labor on the videotapes and at the farm.

The Defendants also want to misdirect your attention with that loaded word slavery. That was never our word, Ladies and Gentlemen. Pay no mind to it. The defendants also seem to want to make much of the fact that the residents were somehow free to go. But where would they go? You heard the parents talk eloquently about how difficult it is to find someplace for their mentally ill children. And why would they go? The Defendants kept telling them this was the best it would be. These mentally ill people were constantly told Kaufman House is your family and it's the only family you're gonna have. As Peter told you, he saw no light. Do you think he meant at the end of the black tunnel that was the Kaufman House? The residents understood all too well that Kaufman

House, as bad as it was, was better than under the bridge.

Another big red herring was the idea that the Kaufman House residents got better because of the bizarre videotaped sexual activities. How so? There is no cure for schizophrenia. So how did these individuals get better? There has been no evidence of that. Even the treating physicians that the Defendant Arlan Kaufman sponsored as witnesses did not support that idea. Instead, the evidence has been that the Defendants harmed their captive clients; and more importantly, evidence has been that many are much better off now that they have escaped the Kaufman House. Many are living on their own and are productive members of the community. And did you find it incredible that Arlan Kaufman sat on that witness stand and took credit for Kevin's engagement? That outlandish statement spoke volumes about the Defendant and his arrogant denial of the harm he's caused his victims.

Another red herring is we never sold the tapes. Two responses. First, we don't have to prove it. It's irrelevant. But second, why didn't ya? After all, if you believe Arlan Kaufman, he was the Thomas Edison of mental health. He shined a light where only darkness had been before. He can do what nobody else can do. Not even his own expert. He can reason schizophrenics out of their delusions. If that were the truth, Ladies and Gentlemen, they would have

been sellin' those videotapes. They would have been doing those workshops. Instead, they kept it a big secret. They only used that line that they plan to sell and exchange the tapes to convince their victims that posing for their video cameras was legitimate therapy.

The defense has tried to tell you it's just no big deal to touch Mary or Kevin or Barbara once. What the defense is talking about, though, is how many times it's videotaped. We know from Kevin's testimony and Jerry's testimony hundreds of times, daily, all the time. The fact that the Defendants didn't videotape it is irrelevant. And apparently those aren't all the tapes, are they, Ladies and Gentlemen? If we want to see all the tapes, where are they? Where are they, Arlan and Linda? The Defendants don't get one free touch. They don't get any touches. The touching was nothing short of more evidence of how the vulnerable Kaufman House residents were at the Defendants' mercy and had no choice but to perform in their sexually explicit videos.

One of the more outrageous red herrings in the Defendants' closing arguments is this is a criminal case about nothing more than a vendetta and a moral judgment by the Government. That defense is simply an insult to your intelligence.

THE COURT: Eight minutes.

MS. TREADWAY: Thank you, Judge. Linda Kaufman.

Throughout this trial the Defendant Linda Kaufman has tried to distance herself from what happened at Kaufman House. That in and of itself speaks volumes, Ladies and Gentlemen. But the evidence showed clearly that Linda Kaufman was involved, fully knowledgable and fully complicit in everything that occurred. Kaufman House is the tar baby from which Linda Kaufman cannot extricate herself. Indeed, the bizarre goings-on at Kaufman House even in 1988 were so mundane to Linda Kaufman that she was sitting in the kitchen while her husband videotaped Mary masturbating on the table and she sat back and read the newspaper. If she wasn't at the Kaufman House, as she now wants you to believe, how did she know so much about the residents to be valuable to the physicians? She had valuable information because she was there observing everything going on and participating in it. She did the Medicare paperwork and she knew that the claims were not supported by documentation. She's smart enough to be very versed in complex psychiatric medications, but she's not smart enough to know that this was not therapy?

The roles that Linda Kaufman played in this conspiracy were many and were vital to the conspiracy's success. She accompanied people on their doctor visits so she could enforce the code of silence. She dispensed the medications. Her own corner of control. She managed residents' money. She locked and unlocked the seclusion room

as Kevin and Nancy and Peter told you. She enforced the rules. She handled problems. Who came running to the house when SRS and Sheriff Murphy showed up? Linda. She used a stun gun on Peter and taught Barbara and Mary how to use it. She encouraged residents to be nude, as Dean told you. She instructed residents to be -- how to masturbate, as Jerry told you. She took nude photographs. She drilled the code of silence and punished those who dared to break the rules. She lied to keep these things secret. As Kevin told you, Linda Kaufman took part in everything that happened and the videos, the documents and the testimony bear that out. And when she wasn't actively involved, she was the silent partner. She did nothing to protect her patients. She was a nurse with a duty to first do no harm. As Diane Glynn, the lawyer from the nursing board told you, Linda Kaufman had a duty to protect her patients, to report abuse and exploitation. She had a duty to know that her husband was not doing therapy.

Defense counsel has tried to claim that she had no capacity to challenge it. She didn't drop from the moon. She has a brain. And she has a mouth. And she challenged anybody who tried to interfere with her husband or Kaufman House. What she didn't have is a conscience or compassion. That was a big con. Her only loyalty was to herself and to her husband. Oh, yes, Ladies and Gentlemen, Defendant Linda Kaufman was a vital part in the team. She was a

co-conspirator whose culpability is equal to that of her husband's. So, contrary to what Mr. Joseph told you, she did lie; she did cheat; she did steal from Medicare and the families and the residents. She and her husband not only stole money, they stole lives; they stole hope; and they stole any ability for their victims to live any kind of functional life.

As you retire to deliberate, don't be daunted by the scope of the conspiracy or the number of counts. Your decision is quite simple. You can believe the evidence presented to you by the uncontrovertible videotapes, the documents, the experts, the victim witnesses who corroborated each other; or you can believe the Defendants who have hidden the truth and whose lies were repeatedly highlighted during the trial. You can believe the victims or you can believe the one person in this courtroom who had every incentive to lie to you and who played word games with you throughout his testimony.

You've heard us talking for a long time now. What I want to leave for you as you retire for your deliberations is not our words, not our arguments. I want to leave you with just a few of the actions and the words of the victims who the Defendants exploited. The victims who lived in the hell that was Kaufman House. It is in their words that the truth will be found. It is in their actions and words that you will find

reason to convict the Defendants. Peter, screaming, as the Defendant zapped his testicles and penis. Peter telling you how Arlan Kaufman pushed Barbara's face into the urine soaked sheets. Mary saying she was forced to watch Kevin masturbate. Mary crying as Arlan Kaufman tells her she was not forced. Mary down on all fours barking like a dog lapping water from a bowl. Barbara struggling to breathe as Defendant Arlan Kaufman's hands were over her mouth and throat. Peter telling you the Kaufman House was a horrible place and I felt like I was being horribly abused. Kevin telling you I was mentally coerced; I was forced to go to the farm where the debt never ended; Arlan Kaufman told us the Kaufman House was the best it would possibly get for us and everything else was downhill; the whole society at Kaufman House was skewed; the day I left was a breath of fresh air.

Barbara, dancing on the porch as she was led away from the Kaufman House to a life free from its abuse. Kevin telling you what happened at the Kaufman House was an abomination. It was no delusion. Kevin was absolutely right, Ladies and Gentlemen. What happened at the Kaufman House was more than an abomination. It was criminal. It was no delusion that the Defendants for over 20 years conspired together to commit the crimes of involuntary servitude, forced labor, health care fraud, mail fraud, false representations to Medicare, and obstruction of an audit. With your verdicts of

guilty, you will be telling the Kaufman House victims we believe you, it was no delusion. We therefore ask you to return the verdicts completely supported by the evidence. Guilty on all counts as to Defendant Arlan Kaufman. Guilty on all counts as to Defendant Linda Kaufman.

THE COURT: Thank you, Ms. Treadway. Does the Government have any additional requested instructions or any additional objections to the instructions given?

MS. TREADWAY: No, Judge.

THE COURT: Mr. Haney?

MR. HANEY: No, Your Honor. Thank you.

THE COURT: Mr. Joseph?

MR. JOSEPH: No, sir.

THE COURT: All right. Well, we've come to the point in the case where you all get to deliberate. I have just a couple of additional verbal instructions for you. First of all, Ms. Rump, you may stay with the jury while you all eat lunch. But you must -- the rest of you must not talk about the case while you have your lunch. When Ms. Rump leaves, then you may begin your deliberations.

Now, there's no time limit on your deliberations. You are in complete control of your deliberations. We're going to monitor them in the sense that if you haven't completed your deliberations by 5:00 tonight, for example, we'll send you home and have you come back tomorrow. But if

you want to take a break, some of you want -- I know some of you are smokers and you want to go outside and smoke, then you must stop your deliberations until all of you are back in the jury room. The whole idea of having twelve people here after five weeks is to share your memory of the evidence and your opinion of the evidence and the credibility of the witnesses and all the other things that I told you about in the instructions.

We will bring all the evidence in to you. We will bring in the television so that you can look at the tapes if you wish to do so and all the rest of the evidence that's been admitted. With that, I'll excuse you to have your lunch and then begin your deliberations.

(Jury retires to deliberate their verdict at 1:25 p.m.)

(Beginning at 5:03 p.m. the following proceedings continued.)

THE COURT: I'm going to send you home for the evening. Of course, the admonition goes back into effect. You can set your own time for coming back tomorrow. Within reason. And you decide on what time you want to come back, just don't start deliberating until all of you are here in the jury room. We'll get lunch for you tomorrow so somebody will come in and take your lunch orders. And with that, I'll excuse you. If you wait back there in the jury room, someone

will be coming down to take you to your cars. Okay. Thank you. You're excused.

(Recessed for the evening at 5:04 p.m.)