

# Exhibit B

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VOLUME 4

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE SUSAN ILLSTON, JUDGE

UNITED STATES OF AMERICA, )

PLAINTIFF, )

VS. )

TAMMY A. THOMAS, )

DEFENDANT. )

NO. CR 06-0803 SI

SAN FRANCISCO, CALIFORNIA

THURSDAY, MARCH 27, 2008

**TRANSCRIPT OF TRIAL PROCEEDINGS**

**APPEARANCES:**

FOR THE GOVERNMENT: JOSEPH P. RUSSONIELLO  
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SAN JOSE, CALIFORNIA 95113  
**BY: JEFFREY DAVID NEDROW, ESQUIRE**  
**MATTHEW A. PARRELLA, ESQUIRE**

FOR DEFENDANT: COLEMAN & BALOGH, LLP  
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SAN FRANCISCO, CALIFORNIA 94103  
**BY: ETHAN A. BALOGH, ESQUIRE**

**REPORTED BY: JOAN MARIE COLUMBINI, CSR 5435, RPR**  
**OFFICIAL COURT REPORTER, U.S. DISTRICT COURT**

**JOAN MARIE COLUMBINI, CSR, RPR**  
**OFFICIAL COURT REPORTER, U.S. DISTRICT COURT**  
**415-255-6842**

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1           **THE CLERK:** PLEASE STATE YOUR FULL NAME FOR THE  
2 RECORD.

3           **THE WITNESS:** JEFF NOVITZKY.

4           **THE CLERK:** SPELL YOUR LAST NAME.

5           **THE WITNESS:** N-O-V-I-T-Z-K-Y.

6           **THE CLERK:** THANK YOU.

7                           **DIRECT EXAMINATION BY MR. NEDROW**

8 **BY MR. NEDROW**

9 **Q** GOOD AFTERNOON, SIR.

10 **A** GOOD AFTERNOON.

11 **Q** COULD YOU PLEASE TELL US WHAT YOU DO FOR A LIVING?

12 **A** EXCUSE ME?

13 **Q** WHAT YOU DO FOR A LIVING?

14 **A** SURE. I'M A SPECIAL AGENT WITH THE IRS CRIMINAL  
15 INVESTIGATION DIVISION ALSO KNOWN AS IRS/CI.

16 **Q** HOW LONG HAVE YOU WORKED WITH THE IRS?

17 **A** I HAVE BEEN AN IRS SPECIAL AGENT FOR THE LAST 15 YEARS.

18 **Q** WHAT KIND OF THINGS DO YOU DO AS A SPECIAL AGENT WITH THE  
19 IRS CRIMINAL INVESTIGATION DIVISION?

20 **A** PRIMARILY INVESTIGATE FEDERAL CRIMINAL VIOLATIONS OF THREE  
21 NATURES: LARGE SCALE TAX EVASION, FEDERAL MONEY LAUNDERING  
22 VIOLATIONS, AND CURRENCY REPORTING VIOLATIONS.

23 **Q** IN WORKING ON -- SO THESE ARE PRIMARILY FINANCIAL CRIMES;  
24 IS THAT CORRECT?

25 **A** THAT'S CORRECT.

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1 Q BASED ON YOUR RECOLLECTION OF THE DATES, WHERE DID THAT  
2 FALL IN CONNECTION WITH MS. THOMAS' GRAND JURY TESTIMONY?

3 A IT FELL A WEEK BEFORE HER GRAND JURY TESTIMONY.

4 Q AGAIN, IT'S YOUR RECOLLECTION THAT A FILED AND SIGNED COPY  
5 OF THIS ORDER IS WHAT YOU SERVED UPON MS. THOMAS AS YOU  
6 DESCRIBED?

7 A YES, THAT IS.

8 Q OKAY. YOU'VE -- YOU, OF COURSE, WERE NOT IN THE GRAND JURY  
9 ROOM WHEN MS. THOMAS WAS QUESTIONED, CORRECT?

10 A THAT'S CORRECT.

11 Q DID YOU, PURSUANT TO YOUR DUTIES AS A SPECIAL AGENT, HAVE  
12 THE OPPORTUNITY AFTER HER TESTIMONY TO LOOK AT HER GRAND JURY  
13 TRANSCRIPT?

14 A YES, I HAVE.

15 Q AND WERE HER STATEMENTS MATERIAL TO YOU IN TERMS OF  
16 DECIDING WHAT COURSE THE INVESTIGATION WAS GOING TO TAKE AFTER  
17 THE DATE OF HER TESTIMONY?

18 A YES.

19 Q PLEASE DESCRIBE HOW HER TESTIMONY IMPACTED YOU AS YOU MADE  
20 INVESTIGATIVE DECISIONS GOING FORWARD AFTER HER TESTIMONY.

21 A SHE GAVE INCONSISTENT STATEMENTS IN TERMS OF THE EVIDENCE  
22 WE WERE COMPARING THEM TO, IN THAT SHE MADE STATEMENTS THAT SHE  
23 DIDN'T GET THESE SUBSTANCES, INCLUDING NORBOLETHONE, FROM  
24 PATRICK ARNOLD.

25 AGAIN, WE WERE EXPECTING HER TO BE THE LINK TO

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BEFORE THE HONORABLE SUSAN ILLSTON, JUDGE

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PLAINTIFF,	)	
	)	
VS.	)	NO. CR 06-0803 SI
	)	
TAMMY A. THOMAS,	)	
	)	SAN FRANCISCO, CALIFORNIA
DEFENDANT.	)	MONDAY, MARCH 31, 2008
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GOVERNMENT'S WITNESSES

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1 Q THEN HE TOLD THIS JURY THAT, NO, THE OLYMPIC PERSON WAS  
2 SOME GREEK ATHLETE, RIGHT?

3 A DID HE SAY THAT? I DON'T RECALL THAT.

4 Q THE JURY WILL REMEMBER HIS TESTIMONY.

5 NOW, APART FROM WITNESSES BEING AVAILABLE TO TESTIFY  
6 BEFORE THE BALCO GRAND JURY SO IT COULD HAVE RETURNED AN  
7 INDICTMENT AGAINST PATRICK ARNOLD, AS YOU TESTIFIED YOU WANTED  
8 IT TO, I WANT TO ASK YOU ABOUT THE OTHER EFFECTS MS. THOMAS'S  
9 TESTIMONY PURPORTEDLY HAD ON THE WORK OF THE BALCO GRAND JURY.  
10 IS THAT ALL RIGHT, SIR?

11 A SURE.

12 Q YOU THINK -- YOU'VE PREVIOUSLY STATED THAT MS. THOMAS'S  
13 TESTIMONY BROUGHT INTO QUESTION THE CREDIBILITY OF OTHER  
14 WITNESSES?

15 A CORRECT.

16 Q AND YOU SAID THAT MS. THOMAS'S TESTIMONY BROUGHT INTO  
17 CREDIBILITY THE DOCUMENTS SEIZED AS PART OF THE BALCO RAID?

18 A CORRECT.

19 Q WHICH DOCUMENTS DID MS. THOMAS'S TESTIMONY AFFECT THEIR  
20 CREDIBILITY?

21 A THE NORBOLOTHONE POSITIVE TESTS. THE FAX WITH THE HEADER  
22 OF THE UNITED STATES OLYMPIC COMMITTEE ATHLETE TRAINING CENTER  
23 AND LPJ RESEARCH.

24 Q HOW DID HER TESTIMONY MAKE IT -- BRING INTO QUESTION THE  
25 CREDIBILITY OF THOSE DOCUMENTS?

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1 A SHE TESTIFIED THAT SHE'D NEVER TAKEN ANYTHING SHE RECEIVED  
2 FROM PATRICK ARNOLD. NOTHING. SHE SAID SHE GOT 1AD AND SENT  
3 IT BACK. SHE SAID THAT WAS THE ONLY THING SHE GOT FROM HIM.

4 THERE WAS A DOCUMENT SHOWING A POSITIVE NORBOLOTHONE  
5 TEST. TO MY KNOWLEDGE, THE ONLY PERSON THAT EVER TESTED  
6 POSITIVE FOR NORBOLOTHONE WAS TAMMY THOMAS.

7 SO WITH HER TESTIMONY THAT SHE HAD NEVER TAKEN  
8 ANYTHING FROM PATRICK ARNOLD, US KNOWING THAT PATRICK ARNOLD  
9 WAS OR APPEARED TO BE THE PERSON CREATING THESE DRUGS,  
10 OBVIOUSLY, WITH TESTIMONY, YOU GO BACK AND LOOK AT THE  
11 DOCUMENTS AND SAY, IS WHAT I'M LOOKING AT RIGHT HERE, BRINGING  
12 INTO QUESTION THE CREDIBILITY.

13 ULTIMATELY, THE DOCUMENT WAS CREDIBLE BUT ANY  
14 INVESTIGATOR'S NOT GOING TO TAKE A DOCUMENT ON ITS FACE. IF  
15 THEY GET CONFLICTING TESTIMONY OR INFORMATION, THEY'RE GOING TO  
16 GO BACK AND LOOK AND LET'S MAKE SURE WE HAVE THIS THING RIGHT,  
17 AND THAT'S WHAT I WAS REFERRING TO.

18 Q SO THAT WAS THE EFFECT OF HER TESTIMONY WHEN YOU HEARD IT,  
19 YOU WENT BACK AND SAID, WOW, THESE TESTS MAY NOT BE GOOD; IS  
20 THAT RIGHT?

21 A NOT THAT THEY MAY NOT BE GOOD; IS THERE SOMEBODY ELSE THAT  
22 TESTED POSITIVE FOR NORBOLOTHONE, LET'S CALL UP INDIVIDUALS WHO  
23 WOULD KNOW THIS.

24 Q SO YOU SOUGHT ALTERNATIVE EXPLANATIONS TO TRY TO RECONCILE  
25 HER TESTIMONY AND THE DOCUMENTS?

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