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UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

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IN RE: . Case No. 89-11051
CUMBERLAND INVESTMENT CORP. . Providence, Rhode Island
February 15, 1996
9:30 a.m.
Debtor .
* * * * *

TRANSCRIPT OF HEARING ON TRUSTEE'S NOTICE OF SALE OF COINS;
OBJECTIONS
BEFORE THE HONORABLE ARTHUR N. VOTOLATO, J.U.S.B.C.

APPEARANCES:

Special Master, RISC: IRVING BRODSKY, ESQ.
For the FDIC: FRANK CADIGAN, ESQ.
Chapter 7 Trustee: JASON MONZACK, ESQ.
For the U.S. Trustee: SHERYL SERREZE, ESQ.
For Redemption Clients: PHILIP DUNLEAVY, ESQ.
For the Class: DAVID CAMPBELL, ESQ.
(Co-counsel)
For Fleet Bank: JASON D'ORIO, ESQ.
For Hal Chorney: SCOTT LUTES, ESQ.
Coin Holders: WARREN TAFT, FREIDA KEARNS,
and DAVID HERSEY

Electronic Sound Recording Operator: Richard P. VanWie

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505 HAMILTON AVENUE Suite 107
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(609) 927-0299 FAX (609) 927-6420
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1 THE COURT: In the matter of Cumberland Investment
2 Corporation, Trustee's Notice of Sale and various objections.

3 CLERK: May we please have appearances for the
4 record.

5 MR. TAFT: Warren Taft.

6 MR. DUNLEAVY: Phillip Dunleavy.

7 MR. BRODSKY: Irving Brodsky as Special Master.

8 MR. CADIGAN: Frank Cadigan, FDIC.

9 MR. MONZACK: Jason Monzack, Chapter 7 Trustee.

10 MR. D'ORIO: Joseph D'Orio, Fleet National Bank.

11 MR. CAMPBELL: David Campbell, Co-Counsel for the
12 class.

13 MS. KEARNS: Sir, I'm one of the parties that would
14 like to have a say in the matter. Can I do that now?

15 THE COURT: Not quite. Just tell us your name and
16 have a seat, and you'll be allowed to speak.

17 MS. KEARNS: My name is Frieda Kearns from Trenton,
18 New Jersey.

19 THE COURT: Okay. And you came from New Jersey?

20 MS. KEARNS: Yes.

21 THE COURT: And you are a --

22 MS. KEARNS: I'm a coin holder.

23 THE COURT: Coin holder, okay. Thank you. Have a
24 seat just for now.

25 MR. LUTES: Good morning, Your Honor. I'm attorney

1 Scott Lutes. Those are the service lists, I represent Mr.
2 Chorney in the federal court case.

3 THE COURT: Okay. And anybody else who's here as
4 an interested party can put your name on the record if and
5 when you decide to speak up. Mr. Monzack.

6 MR. MONZACK: If Your Honor please, we're here on
7 the Chapter 7 Trustee's Amended Notice of attempted sale of
8 certain coins and stamps that are currently in the possession
9 of Christie's. I guess just a brief overview of how we got
10 here this morning.

11 THE COURT: Incidentally, as a mechanical matter,
12 have you spoken to any of the objectors or dealt with any of
13 them in connection with this morning's hearing?

14 MR. MONZACK: I've spoken to several folks on the
15 telephone.

16 THE COURT: Yeah.

17 MR. MONZACK: I don't think I've spoken to anybody
18 who is present in the Court this morning specifically with
19 regard to this hearing.

20 THE COURT: Okay. This is a suggestion or a
21 thought. I'm willing to take a short recess -- we have
22 apparently a few of the objectors who have appeared -- I'm
23 just guessing. If you think you can have any meaningful
24 discussion, informative or otherwise with these people not in
25 a hearing context, I'll take a short break. If you think we

1 should just keep going, I'll do that.

2 MR. MONZACK: We certainly are willing to give it a
3 try, Your Honor, to have a discussion with the people who are
4 here.

5 THE COURT: All right, it looks like as with some
6 of my other ideas, call me back right away, and we won't
7 waste any time. If you don't think you're accomplishing
8 anything or informing people as to things that they might
9 otherwise, you know, not get at a hearing, let me --

10 MR. MONZACK: Thank you, Your Honor.

11 (Off the record at Tape #1, Index #2801)

12 * * * * *

13 (On the record at Tape #1, Index #2802)

14 CLERK: Please remain seated.

15 MR. MONZACK: If Your Honor please, we have not
16 been able to reach any agreement in the discussions that we
17 had, so before the Court is the Trustee's Amended Notice of
18 Intended Sale free and clear of liens and encumbrances dated
19 January 11, 1996 seeking the authorization of this Court to
20 sell certain coins and stamps in the possession of
21 Christie's.

22 The whole issue as I understand it really resolves
23 around paragraph 6 of the amended notice, which states as
24 follows -- I'll just briefly read it into the record, Your
25 Honor.

1 "The class action suit previously instituted by the
2 redemption of coin holders was resolved by this
3 Court's order of March 28, 1995 whereby the
4 redemption coins were turned over to the attorney
5 for the redemption coin holders. Notwithstanding
6 the preceding, a concern has been voiced by several
7 redemption coin holders that perhaps they can
8 identify their coins from those now in the
9 possession of Christie's.

10 To address this concern, any redemption coin
11 holder may arrange with Christie's to view the coins
12 which will be auctioned, and if a redemption coin
13 holder has a realistic and legitimate concern that
14 his or her coins may be auctioned, those coins
15 identified by the redemption coin holder as
16 possibly belonging to a redemption coin holder will
17 not be auctioned until this Court determines how to
18 dispose of any such coins."

19 As you will recall, the litigation with redemption coin
20 holders was resolved pursuant to the Court order referenced
21 in paragraph 6 of the Order. In an effort to -- let me step
22 back a little bit. The problem that exists today and that
23 existed at the time the settlement was made and what was
24 known by all parties at that time was that the coins that
25 were stored in these canisters that were identified as

1 redemption coins had four digit identifying numbers on them.
2 In round numbers, approximately two-thirds of the coins that
3 were in these canisters had identifying numbers on them that
4 matched up with known redemption coin holders based upon
5 proofs of claim that were filed in the Bankruptcy Court or
6 that were otherwise communicated to Mr. Smith.

7 For instance, I don't believe Mr. Taft filed a
8 claim in the Bankruptcy Court, but he did communicate and
9 indicate what his bearer number was, so the list in the
10 Bankruptcy Court I don't believe is exhaustive of all people
11 that communicated with Mr. Smith to identify their bearer
12 numbers. Be that as it may, it still left about one-third of
13 these coins in canisters with four digit identifying numbers
14 that didn't match up with any known redemption coin holder
15 though in total coins, the total number of coins that made up
16 this lot of redemption coins was actually slightly in excess
17 of those numbers previously represented by Mr. Chorney to
18 have represented the total number of redemption coins.

19 With knowledge of that problem, and with the FDIC
20 willing to give up its claim and to at least secure those
21 claims, that settlement was reached, those coins returned to
22 Mr. Smith -- the Court order in fact envisioned that there
23 would be a problem and stated that those coins that could be
24 identified to redemption coin holders would be returned to
25 them. Those coins that could not be identified to a

1 particular redemption coin holder would be liquidated. Mr.
2 Smith's professional fees would be paid out of that and the
3 balance of the funds then would be disbursed to the remaining
4 redemption coin holders pro rata to those folks who didn't
5 get their coins back. That matter was resolved by this
6 Court's order.

7 In an effort to accommodate Mr. Taft's concern --
8 Mr. Taft had been before the Court a number of times and had
9 voiced concerns about what happened in the administration of
10 his case way back when, when it was a Chapter 11 case. There
11 have been -- pursuant to prior reports given to the Court,
12 Mr. Taft and myself had met with Mrs. D'Orio who is the
13 attorney for the bank, met with the U.S. Attorney, viewed
14 tapes at both locations, took a look at additional
15 documentation in an effort to answer some questions that Mr.
16 Taft had. In an effort to try to accommodate Mr. Taft and
17 other similarly situated redemption coin holders, it was --
18 the offer was made that as part of this sale, if we could
19 identify particular coins that possibly could be redemption
20 coin holders, certain coins would be pulled out of the sale
21 and the sale would go forward based upon some realistic and
22 legitimate concerns with regard to those coins.

23 THE COURT: Has anybody come forward or taken you
24 up on that offer?

25 MR. MONZACK: Well, here's where we are right now,

1 Judge. Mr. Brodsky was successor in possession of the
2 redemption coins, and Mr. Brodsky currently has in his
3 possession the -- essentially the canisters that were
4 identified as redemption coins for the purposes of that
5 settlement that had bearer numbers on them that didn't match
6 up with any known individual.

7 THE COURT: That did not.

8 MR. MONZACK: Whose bearer number is either on file
9 with the Court or was previously communicated, I guess, to
10 Mr. Smith before or to Mr. Brodsky after he took possession
11 of the coins. In our discussion before the suggestion was
12 made that if a redemption coin holder could not identify a
13 coin by year and mint mark that was currently in Mr.
14 Brodsky's possession, then we would seek to isolate those
15 coins from the coins currently in Christie's possession, not
16 conceding that they were redemption coin holders' coins, but
17 pulling them out of the sale for the time being, and perhaps
18 resolving a dispute later on, though it would be the position
19 of the Trustee and the FDIC that there can be no dispute
20 because this issue has been resolved.

21 This is really sort of just an effort to allow the
22 sale to go forward in an expeditious manner. Apparently,
23 though, the coins that are in Mr. Brodsky's possession have
24 not been identified by year and mint mark, and so it's
25 unknown for instance whether Mr. Taft's coins by year and

1 mint mark are in Mr. Brodsky's possession or not. Let me
2 take that back. Coins that have the same year and mint mark
3 as Mr. Taft's are in the possession of Mr. Brodsky.

4 To go back, even the coins that have been returned
5 matched up with identifying numbers; some of the redemption
6 coin holders take the position that because in the earlier
7 administration of the case these canisters were opened, maybe
8 they're not their coins, so even people who put coins back
9 that appear to match up by year and mint mark that definitely
10 matched up by identifying number, even those people -- some
11 of those people say, "Well, how do I know these are my
12 coins?"

13 So that's the kind of attitude, you know, that
14 exists in this case. But it was the position of the FDIC
15 that if the coins are not in the possession of Mr. Brodsky by
16 year and mint mark, but there are coins in the possession of
17 Christie's by year and mint mark that match up to the
18 redemption coin holders, then those coins could possibly be
19 pulled from the auction.

20 THE COURT: If you have a year and a mint mark, is
21 that a positive ID of a coin, or does that just put it in a
22 category that you can still fight over?

23 MR. MONZACK: Well, for instance I've got
24 statistics -- I mean certain coins there were ten million of
25 them minted. You know you bought a, you know, 1909 Morgan

1 silver dollar.

2 THE COURT: Yeah.

3 MR. MONZACK: There are ten million of them -- just
4 using arbitrary numbers --

5 THE COURT: Okay, so it's not like as if it was DNA
6 here that we're --

7 MR. MONZACK: That's right. There is no way to
8 identify that a particular coin in Christie's possession is
9 that individual's coin, just as the redemption coin holder's
10 coin matches the coin that were returned to them in canisters
11 bearing their bearer numbers. They're saying, "How do I know
12 those are my coins?"

13 THE COURT: Mmhmm.

14 MR. MONZACK: These were coins that were originally
15 sold in sealed containers and to keep the so-called fifteen
16 per cent a year guarantee you never could open it and look at
17 it. I mean the people who bought these coins never
18 visualized, as far as I know, didn't visually identify the
19 coins in the canisters in the first place to be identical to
20 what they were purchasing.

21 THE COURT: Are there any coins either in the
22 possession of Mr. Brodsky or Christie's or anybody involved in
23 this case that are still sealed and kept the way they were
24 promised to be kept, or has everything been contaminated?

25 MR. MONZACK: Certainly -- I guess we have a slight

1 dispute as to whether there were any canisters that were not
2 unsealed, but certainly a majority of the canisters appeared
3 to have been unsealed early on in the administration of the
4 case.

5 THE COURT: When you say a canister, what does that
6 look like? What am I --

7 MR. MONZACK: It sort of looks like a -- a vitamin
8 bottle. type of thing. But --

9 THE COURT: A what?

10 MR. MONZACK: -- it's a particular canister
11 designed to hold silver dollars, and so it's got a radius in
12 it that matches up with the radius of the silver dollar to be
13 in a single stack, has a cap on it that looks sort of like a
14 vitamin jar cap --

15 THE COURT: Yeah.

16 MR. MONZACK: -- that type of cap that seals. Most
17 of them are in like a translucent plastic. It's not clear.
18 You really can't see into it, but you can sort of make out
19 shadows on the inside. The canisters probably hold 20 coins
20 maximum, but not all of them held 20 coins. A lot of them
21 had like tissue paper in the top, and some of the canisters
22 were never -- were not supposed to have held twenty. Some
23 people bought ten coins and they were put in the canisters,
24 some bought twenty, or numbers in between.

25 THE COURT: Yeah.

1 MR. MONZACK: But every coin that was in that type
2 of canister with a four digit number on it was returned to
3 Mr. Smith. That was the terms of the settlement. The coins
4 that Christie's has were not in canisters bearing four digit
5 ID numbers. Now there's a lot of, as I said, finger-pointing
6 that, you know, someone did whatever with these coins early
7 on.

8 THE COURT: Mmhmm. Are the -- the finger-pointing,
9 is it at Court-appointed officials like Mr. Weingarten and
10 Mr. Cohen and you and the FDIC and the banks, or is it Mr.
11 Chorney that --

12 MR. MONZACK: I guess different people point
13 different fingers, but just about everybody you've mentioned
14 has had fingers pointed at them.

15 THE COURT: Yeah, mmhmm.

16 MR. MONZACK: But principally I believe Mr. Taft
17 and most of the people I think that are currently active as
18 redemption coin holders are -- have more closely the
19 perspective on it than Mr. Taft does, and I think it goes
20 from the bank itself and when they moved coins around to when
21 the Chapter 11 Trustee took possession of them, when the
22 Special Master who was appointed -- I mean the examiner, he's
23 the one who initially took possession of them and then they
24 were turned over to Mr. Cohen. I think it's in that early
25 stages of it when the bank was moving them around, when the

1 Special -- when the examiner took possession, when various
2 inventories and coins were counted.

3 I mean the problem that existed in the case from
4 day one is that as soon as you tried to count the coins,
5 allegations are made that you lessened their value. So the
6 claim has been made both that there have been insufficient
7 inventories done, and that there's been excessive counting of
8 the coins done; but whatever, all of those issues, and some
9 of them were intractable and really were not subject to
10 resolution, especially at the stage that I got in the case,
11 and so the determination was made that these coins that were
12 in these canisters that had four digit identifying numbers,
13 all of them would be returned to the redemption coin holders
14 via their counsel, and that as I said, the order anticipated
15 the fact that not all coins would be returned to all
16 redemption coin holders, and in fact the order speaks to how
17 those coins would be disposed of -- sort of a recognition of
18 the fact that a -- that someone -- it would be nice if these
19 people could get their coins back and try to accommodate
20 people over -- even though it was not the legal obligation of
21 the Trustee or the FDIC to do that in view of the settlement
22 that was reached and the Court order that was entered.

23 But the problem we're having now is that this is
24 really where I think the crux of the problem is. Mr.
25 Brodsky's got these coins, they clearly are in canisters with

1 four digit numbers that don't match up, for instance, with
2 the people who are in the Court today who have bearer
3 certificates with four digit numbers. No doubt about that.
4 They don't match up with them. However, the coins that are
5 in those canisters may match up by year and mint mark with
6 those people's coins. They may or may not. Mr. Brodsky
7 wants to continue to refer to them just by their identifying
8 number and has not done a -- I don't want to speak for Mr.
9 Brodsky but apparently he doesn't think it's relevant that
10 you've got a year and mint mark. Perhaps there's a concern
11 because as soon as you open these things up again, it's like
12 counting them again; you're subject to people saying you
13 further reduce their value. But the accommodation that we're
14 trying to reach with redemption coin holders was if they
15 can't get their coins back from those remaining coins that
16 are now in Mr. Brodsky's possession, then we try to
17 accommodate them by isolating and taking out a certain number
18 of the coins that are proposed for sale.

19 THE COURT: I take it there are not enough coins to
20 go around.

21 MR. MONZACK: No, in terms of absolute numbers, the
22 number of coins that were returned to Mr. Smith was actually
23 in excess of the number of redemption coin holder claims
24 known.

25 THE COURT: Okay.

1 MR. MONZACK: So in terms of absolute numbers,
2 there are enough coins. Whether they match up by year and
3 mint mark, I don't know, and I think the redemption coin
4 holders will take the position how do we know they're their
5 coins, and they don't know that they're their coins, the same
6 way though there's no way to know that a coin in Christie's
7 possession is their coin. It would seem likely, however,
8 that if a coin exists, it existed in that group of coins that
9 were identified as redemption coins that were in these
10 canisters with four digit numbers on them. If we can't reach
11 any accommodation with the redemption coin holders in terms
12 of trying to isolate the ones that Mr. Brodsky has and limit
13 the amount that might be withheld from an auction --

14 THE COURT: Yeah. So there's no scientific or non-
15 subjective way to hook up redemption coin holders with their
16 coins apparently, based on how these things were sold, is
17 that right?

18 MR. MONZACK: The only way --

19 THE COURT: Like why -- are you able to do it? Is
20 this Court able to solve this problem or is it something
21 that'll be, you know, continuing when the next bankruptcy
22 judge is here, you know?

23 MR. MONZACK: There is no -- as far as I can -- I'm
24 not a numismatist, but the only way that I understand that
25 a redemption coin holder could be identified with his coins or

1 her coins was that the coins were put in a canister and with
2 a four digit identifying number on them. If you had the
3 bearer's certificate that matched up with that four digit
4 number, then you -- that would presumably be your coins. As
5 I -- as I said, even the redemption coin holders, or a
6 certain number of them who got their coins back, they were in
7 canisters that had previously been opened, and so they say
8 how do -- I guess the only way to be sure of the fact would
9 be if they received a canister that was sealed, but nobody
10 knows if the coins that were originally in there were matched
11 up with the description.

12 THE COURT: Right. And I take it there's no such
13 thing as a sealed canister in this case anymore?

14 MR. MONZACK: I thought that there were a few, but
15 certainly the majority of them at least were unsealed.

16 THE JUDGE: Okay. All right. So we're talking
17 about a lot of water over the dam. Maybe Mr. *Weingarten
18 should be here to explain what he did, or Mr. Cohen, or --

19 MR. MONZACK: Well, that's -- if you remember, I
20 was working with Mr. Taft in an effort to -- and I certainly
21 would be willing to continue to work that way, but that's not
22 going to resolve the issue that's before the Court today. In
23 other words, I certainly don't have any reticence about
24 continuing to work with Mr. Taft to try to get additional
25 documentation from earlier -- from the examiner and the

1 Chapter 11 Trustee to try to find out more specifically how
2 the case was administered.

3 Though there are certain problems -- for instance,
4 there was an inventory -- a hand-written inventory of certain
5 coins made by Mr. Chorney on a so-called yellow pad that
6 admittedly was in the hands of the U.S. Attorney at one
7 point, and the U.S. Attorney can't find it anymore. That's
8 part of -- of -- we went over there and met with the U.S.
9 Attorney, and probably Mr. Lutes is more familiar with that
10 than I am, but there are certain documents that existed that
11 were in the possession of, for instance, the U.S. Attorney.
12 We met with these attorneys to find out what they had, and
13 for instance that --

14 THE COURT: The U.S. Attorney lost an inventory?

15 MR. MONZACK: I'm told -- it's all hearsay, but I'm
16 told that this yellow pad that Mr. Chorney had was at one
17 time in the possession of the U.S. Attorney and at the
18 present time they have been unable to locate it.

19 THE COURT: Yeah, but do they acknowledge that they
20 ever had it?

21 MR. MONZACK: I think they do. Mr. Lutes? I don't
22 know.

23 MR. LUTES: Last I was told, because we didn't file
24 the motions for a new trial, last I was told they had them,
25 that I'd looked at them, and I didn't want them, so I have no

1 idea whether they have them and I just haven't seen them, or
2 they never had them. I mean there's conflicting tales back
3 and forth. Last I was told about a month ago they had them,
4 they were in Box -- I want to say 32, something like that,
5 and supposedly I had signed for it and I had already seen it,
6 so -- but I don't recall seeing them either. That's what
7 I'm told.

8 THE COURT: Okay.

9 MR. MONZACK: You know, to get to the point --
10 we've made an effort, Judge, to find out some of this
11 information as I said, and I would be -- I was ordered
12 actually by you to continue to aid Mr. Taft in sort of an
13 informal investigation that he has, but that -- none of this
14 is going to resolve the issue -- none of this is going to
15 identify a coin that's going to be Mr. Taft's, because there
16 may be a coin that has the same year and mint mark, but as I
17 said, there may be 5 million of them that were minted.

18 THE COURT: Okay, based on your -- all of your
19 contact with the redemption coin holders and the recent --
20 during the recess that we just took a few minutes ago, what
21 do you understand the position of the coin holders to be?
22 What do they want you to do?

23 MR. MONZACK: I think, you know --

24 THE COURT: And I'll hear from them, I'm sure.

25 MR. MONZACK: To summarize, the different opinions

1 as I heard them, and you know, every -- it may not -- my
2 hearing may not be one hundred per cent accurate on this, and
3 not all the redemption coin holders probably have the exact
4 same position. I think at the most extreme, I think what
5 some of the redemption coin holders would like to do is
6 inventory Mr. Brodsky's coins, take a look at all the coins
7 that are in Christie's possession, find out every coin that
8 exists between Mr. Brodsky and Christie's that match up with
9 the year and mint mark. If they have ten of those coins, you
10 get someone in there to find out what the ten most valuable
11 in that group are, and get those ten most valuable back. I
12 think that's probably one extreme position.

13 THE COURT: Okay, that's pretty extreme. Go ahead.

14 MR. MONZACK: I think the next position is -- I'm
15 not really sure. To stop the sale, don't let it go through
16 until it's determined if those coins that Christie's has is
17 my coins. I can see it right now. One is never going to
18 determine if the coins that Christie's has is a particular
19 person's coin.

20 THE COURT: Okay. And probably it's not fair to
21 ask you what their position is. I guess I'll get that from
22 the coin holders.

23 MR. MONZACK: But if I may make clear what my
24 position would be --

25 THE COURT: Yeah.

1 MR. MONZACK: -- it would be that these folks
2 should first look to the redemption coins that were returned
3 to Mr. Brodsky. It may be that in number Mr. Brodsky has
4 enough coins of the right year and mint mark to return these
5 coins to the redemption coin holders, though they may not be
6 happy to get them, because they don't believe they were kept
7 in these inviolate canisters.

8 THE COURT: Are we dealing with a problem now that
9 most of what Mr. Brodsky has is kind of worthless, or
10 practically, compared to what was paid for it maybe?

11 MR. MONZACK: Based upon the appraisals that I've
12 seen in the case, the coins would all appear to be
13 substantially -- worth substantially less than what was paid
14 for the coins. Again, I'm not a coin expert, but the
15 appraisals that I saw that were done while the examiner was
16 in place indicated that the coins were worth perhaps ten to
17 fifteen per cent of the face amount paid for them. I don't
18 know if the coins that Mr. Brodsky -- I have no reason to
19 believe that the coins that Mr. Brodsky currently holds are
20 less valuable than the approximately two-thirds of the coins
21 already returned to the redemption coin holders. They're
22 probably -- again, it would be an assumption on my part, but
23 I'm assuming that they're of a similar value as to the ones
24 that were returned.

25 THE COURT: Thank you.

1 MR. TAFT: What Mr. Monzack is saying basically is
2 a good summary. From my understanding the coins that Mr.
3 Brodsky has in his possession are in these canisters with
4 bearer numbers. None of those bearer numbers match up to
5 certain redemption people, including myself.

6 THE COURT: None of them?

7 MR. TAFT: None of them. What's inside those
8 tubes, if the outside bearer number doesn't match up to my
9 bearer number, then the coins inside apparently cannot be
10 what I had, or what any of the redemption people had. I
11 guess what Mr. Monzack is stating that these tubes can just
12 be opened up and take a look at year and mint mark and say,
13 "Well, even though it's not your bearer number, we'll put it
14 in -- these will be yours, different bearer number." There
15 was prior testimony in this case -- and I thank the Court for
16 being so patient with me and amongst other redemption clients
17 -- but there has been prior testimony about all of these
18 coins being opened, all of these tubes and these things
19 called flats, which are singular coins sealed, have all been
20 opened up to be examined by the FDIC or whoever else was
21 doing the inventory.

22 I filed this motion, why we're here today, because
23 there were some lot numbers that are at Christie's that have
24 a year and mint mark of similar coins that I had. It doesn't
25 have a bearer number, but does have a year, a mint mark. And

1 that's why I filed that. And then what I did is I also did a
2 comparison to the two inventories that were told to me would
3 be the exact coin under prior testimony; the coins that were
4 sent out to Christie's would be the same exact coins that
5 were here, which I did an inventory which I would like to
6 present to the Court if they want it, which do not match up.
7 The two inventories do not match.

8 Now I was told by Mr. Monzack that I guess there is
9 a difference in the way they inventory, the two different
10 companies, Rampapo (phonetic) and Christie's, which I didn't
11 know; I just went by two inventories comparing the coins, and
12 I have a discrepancy here. I guess we -- at this point there
13 is no way to know unless they open up the tubes that Mr.
14 Brodsky has. I'm not under the understanding that any of
15 these are just loose coins. The -- during this whole -- I'd
16 like to say fiasco I guess --

17 THE COURT: Don't be too polite.

18 MR. TAFT: These coins have all been, tubes and
19 everything have been opened, and by prior testimony, there
20 have been problems putting the correct coins back into the
21 correct tubes, so there has been a lot of mixing up, I guess
22 I want to say the word, so could my coins or someone else's
23 coins here be at Christie's in New York with the same year and
24 mint mark, no. That's possible, but can I say those are
25 definitely mine, no, of course not, I can't, because they've

1 all been opened. But when I say that that lot contains my 70
2 coins with the same year and mint mark and they're in loose
3 condition right now, that is a possibility, and that's why I
4 did this, finding the lot numbers that I stated in my motion
5 to see if we could take a look at that.

6 Now I didn't know about these other people coming
7 forward, so I'm a little lost on that, because I only had one
8 day to read their response to the original motion, which I
9 was hoping I'd have a couple -- at least a week to do, but I
10 just received it the day before, so that's -- and the only
11 other thing is that they used these coins as a grading issue,
12 not only year and mint mark, but there's a grading issue as
13 you well know, so I guess -- I brought this up with Mr.
14 Monzack. He was saying that if Mr. Brodsky has a coin that's
15 similar to my year and mint mark, that that most likely could
16 be mine, and yet if Christie's had one with the same year and
17 mint mark, there could be two totally different gradings of
18 that coin, so who's to say? And I thank you for your
19 patience again.

20 THE COURT: Mr. Brodsky?

21 MR. BRODSKY: May it please Your Honor, would the
22 Court be indulgent with me for a moment so that I could give
23 a background concerning the physical appearance of these
24 coins? When coins were delivered to me pursuant to my
25 appointment; they came in four large metal caskets. There

1 was no identification of ownership of any of these coins.

2 THE COURT: These came from Mr. Smith?

3 MR. BRODSKY: Yes.

4 THE COURT: Okay.

5 MR. BRODSKY: They were delivered to me personally
6 by Mr. Smith. And when I assembled those coins, each of the
7 coins, all of the coins were in containers about the size of
8 a cup, Your Honor, plastic. You know the size of a silver
9 dollar. It could hold a maximum of twenty, and each of the
10 containers, Your Honor, had a number -- one, two, three, four
11 -- and another notation, 1880, and another notation 10, 12,
12 15, 20. I learned that the one, two, three, four was a
13 bearer number, a number that Cumberland assigned to a coin
14 holder when the coin holder made a purchase, and when the
15 coin holder made that purchase and got possession of those
16 coins, there came a time when the coin holder decided that
17 the coin holder wanted those coins redeemed, and so those
18 coins were sent back to Cumberland, and Cumberland in turn
19 sent a piece of paper, called it "Invoice" -- you've seen it
20 -- and that invoice contained a number comparable to the
21 original bearer number, and that invoice indicated the
22 following: The name -- sometimes it just said "bearer," by
23 the way -- and then it said, "1880," which is the year of the
24 coin: Ten, I think it said, container of ten; and on the
25 right-hand side, the miserable number of a purchase price.

1 When I came into possession of those coins and had
2 them all inventoried so that if you called me up or wrote to
3 me and said your number was one, two, three, four, I could
4 then open my document of records and say, "Gee, Judge
5 Votolato, I don't have one, two, three, four," or "I do have
6 one, two, three, four. Send me that invoice." And when that
7 invoice came into my possession and it said, "1880, 10, one,
8 two, three, four," I went to the container, opened it up,
9 1880, 10, R, then I devised a scheme of how they would get it
10 by sending postage and so forth. The difficulty, Your Honor,
11 in my trying to find the coin holders was that I only had
12 bearer numbers. Nothing came into my possession that
13 indicated a list of names with corresponding numbers --
14 corresponding names and numbers.

15 THE COURT: I take it that's been a problem since
16 the beginning of this case, right?

17 MR. TAFT: Yes. And let me continue.

18 THE COURT: Yeah.

19 MR. TAFT: And so when I was on the mailing list
20 for notices to Your Honor before this case before this Court,
21 I then came forward last time and indicated to the Court that
22 many inquiries made of me by coin holders did not find their
23 numbers in my possession, and I suggested to this Court that
24 perhaps the coin holders ought to be notified. Hence this
25 hearing today.

1 Now then, Your Honor, they keep saying that Brodsky
2 has coins. Fine. They have coins. He has coins. He
3 doesn't know the names of the coin holders, and I had on two
4 occasions had to prod FDIC for a list of names with
5 corresponding bearer numbers, never got the response from Mr.
6 Monzack when I wrote to him during this interval between
7 January 4 and today. However, some of the information
8 forwarded me by Mr. Cadigan of FDIC did have corresponding
9 names and numbers. That will take care of my obligation.

10 Now the -- the claim here, Your Honor, is if a John
11 Jones wrote to me and says, "My number is one, two, three,
12 four," and I don't have it, the likelihood, Your Honor, now
13 finger-pointing, is that that one, two, three, four might be
14 in the possession of FDIC, and I don't know and I don't know
15 whether the Court knows what manner of physical possession
16 did FDIC take when it received those coins that they seek to
17 sell. I don't believe they came in barrels. They had to be
18 in containers, or if they were in these little containers,
19 they may have been dumped out, in which case there may be
20 still some evidence of those containers that have numbers on
21 it, you see, so that perhaps when John Jones says to me, "I
22 need one, two, three, four," maybe, just perhaps, FDIC has
23 that. And the petition before the Court, Your Honor, to sell
24 has merit to it.

25 They want to sell it and liquidate their security

1 interest, but with these claims that are now coming in to me,
2 and incidentally, Your Honor, to give you an idea, they come
3 from all over the country, and I have in my possession a
4 large number of coins. But, Your Honor, when you call me up
5 and say your number is so-and-so, I hardly can tell you
6 whether or not those are the very coins that you purchased,
7 other than your identification 1880, 10, bearer number. And
8 I've taken the responsibility on my shoulders to send it back
9 to those people who claim it. And so I respectfully suggest
10 to Your Honor this -- and I do this most respectfully --
11 until this Court is satisfied that the coins can be
12 identified in the possession of FDIC that would be attendant
13 upon their petition, rather than having hundreds from all
14 over the country descending upon Christie's in New York, it's
15 a very severe burden upon them. Now with reference to the
16 time of sale, Your Honor, these are not strawberries that are
17 going to go sour tomorrow. Their value today is going to be
18 no different than at any time when Your Honor is reasonably
19 satisfied as are these coin holders that perhaps they've done
20 everything reasonably within their power to identify those
21 coins.

22 Your Honor, I leave you with one other observation,
23 and I repeat myself. Those coins that came into the
24 possession of FDIC had to be in containers, in these plastic
25 containers. They weren't loose. They weren't around to just

1 viewed, some were in the containers we were describing
2 earlier, some of the coins were in the single plastic flats
3 that had one coin in them with the little plastic container.

4 THE COURT: Mmhmm. Yeah.

5 MR. MONZACK: But every coin that was in a
6 container with a four digit identifying number on it was
7 deemed to be a redemption coin and returned to Mr. Smith.
8 The other coins, and they were segregated into separate -- I
9 think it was seven specific safety deposit boxes -- they may
10 be the canisters Mr. Brodsky speaks of, these gray safe
11 deposit boxes that they were kept in, and they were given
12 back to Mr. Smith -- that the other coins that were kept in a
13 different area were also in containers, but these containers
14 did not have the four digit number that Mr. Brodsky speaks
15 of, didn't have the kind of labeling on it. They were just
16 in plastic containers, otherwise unlabeled, I believe. They
17 didn't have 10, 1880 on it. Didn't have any of the markings
18 that Mr. Brodsky speaks of. That's how the redemption coins
19 were identified, and when you took all of those canisters
20 that had four digit identifying numbers on it and the other
21 markings that Mr. Brodsky speaks of, and you took the numbers
22 that were listed on the outside of the canisters and the
23 numbers that were in it, and you added those numbers up,
24 that's the number that came up to be a number slightly larger
25 than the number given by Mr. Chorney as the total number of

1 shovel up, and the cost of getting an expert in here to say
 2 whether this 1880 coin is the same as this other 1880 coin
 3 would be so -- would be prohibitive; it would be beyond the
 4 reasonable scope of the jurisdiction of this Court, and so I
 5 ask this Court, not that I'm a spokesman for these coin
 6 holders, because I don't represent them, but if I were to
 7 administer my trust to the appointment of the Supreme Court,
 8 these people ought to be given a reasonable opportunity in
 9 this Court. Rather than having to come from all over the
 10 country to go over to Christie's now, there ought to be and
 11 should be records of how they came into possession, how FDIC
 12 came into possession of these coins, whether they came from
 13 containers, where are the containers, and I dare say that if
 14 I could find those containers, we could match up those coins
 15 that are being requested to return to the coin holders.

16 MR. MONZACK: Mr. Brodsky misses one key point
 17 here, and that is clearly the silver dollars were stored in
 18 containers.

19 THE COURT: They were what?

20 MR. MONZACK: They were stored in containers.

21 THE COURT: Which silver dollars?

22 MR. MONZACK: I think just about every silver
 23 dollar was in some sort of container.

24 THE COURT: Okay.

25 MR. MONZACK: Some were in the single, as Mr. Taft

1 redemption coins that Cumberland Coin had. These other
2 canisters reveal nothing other than the fact they are silver
3 dollars that were stored in a separate area and they had no
4 identifying marks on them. Now Barbara Quinn is here from
5 the FDIC and she really oversaw the custody and control of
6 the coins from early on, and if the Court would like, she can
7 take the stand and speak to the issues raised by Mr. Brodsky.

8 THE COURT: Well, if this is an issue, I guess we
9 ought to have some kind of a record about it, and --

10 MR. MONZACK: I mean, I would take the position
11 that this was all pursuant to the settlement of the
12 litigation.

13 THE COURT: Probably it was, but hasn't it been
14 sort of reopened with the way the Notice of Sale in paragraph
15 6 is worded? Aren't we kind of revisiting the question
16 again, because you're a nice guy? So you can't be a nice guy
17 and not go through the steps.

18 MR. MONZACK: But I'm just saying that the issue
19 that Mr. Brodsky raises is an issue that was known at the
20 time of the settlement that I outlined earlier. They didn't
21 match up by bearer number -- by known redemption coin holder
22 claim.

23 THE COURT: Well, what's your pleasure? Do you
24 want to put on some testimony?

25 MR. CAMPBELL: Your Honor, could I just have a

1 minute before the testimony? I'm co-counsel for the class,
2 and I don't really know what that means anymore -- David
3 Campbell. My office negotiated on behalf of the class with
4 Mr. Smith the order that's in issue here today. I'm
5 betwixt and between -- I take no position on the motion
6 before the Court other than to say my name again is on that
7 order. I negotiated on behalf of the class with Mr. Smith,
8 or really my office negotiated on behalf of the class with
9 Mr. Smith, and I think the order speaks for itself.

10 MS. KEARNS: May I speak before the young lady
11 gives her testimony?

12 THE COURT: Sure. Say your name again.

13 MS. KEARNS: Okay, Frieda Kearns, and we are one of
14 the redemption holders. These are the two canisters that I
15 received from Mr. Brodsky and I'd like to thank him for it.
16 Now I don't know whether Cumberland is remiss in giving us
17 an invoice. Three of my purchases have redemption numbers,
18 two did not, but they did have the dates, and the price,
19 unfortunately. I had these checked over by a coin expert,
20 and he was willing to give me \$400.00 for something I paid
21 eight thousand for. So what I'd like to say is that it took
22 us five hours to get here, we drove, and we stayed overnight,
23 a lot of effort and a lot of time and cost to us. I hate to
24 think that this thing would go out of proportion to, you
25 know, our able to get to it, but we'd like to resolve this.

1 I'd hate to think that I got part justice and not complete
2 justice for this, so I would hope that I could see what
3 Christie's has so that they don't sell my coins. I may not
4 be able to prove that they're my coins, but they can't prove
5 that they're not my coins, so that's what I'd like to say,
6 and I thank you, Judge, for listening.

7 THE COURT: But before you leave now, the problem
8 that you just now posed, you can't prove that they're your
9 coins, but Christie's can't prove that they're not your
10 coins, where does that leave us? How do we resolve a problem
11 like that?

12 MS. KEARNS: Well, I think since I paid so much
13 money for them that I ought to have the -- let's say the
14 edge. Why not? It's not Christie's or the FDIC, it's mine,
15 because I bought five of these.

16 THE COURT: But you were probably defrauded when
17 you bought these things. Do you understand that?

18 MS. KEARNS: Well, that's beside the point.

19 THE COURT: No, it's not beside the point. That's
20 what bankruptcy is about in a case like this.

21 MS. KEARNS: But I don't have the other three.

22 THE COURT: But what I'm saying to you is that you
23 were probably financially irreparably damaged the moment you
24 paid for these things, okay, way back whenever it was. We
25 can't cure that.

1 MS. KEARNS: I'm not asking for that, Judge. I'm
2 just -- I just want my -- the coins. I'd like the
3 satisfaction --

4 THE COURT: But which coins?

5 MS. KEARNS: What coins?

6 THE COURT: You know, believe me, I'm listening to
7 you, we're trying to -- I think everybody right now is being
8 exceptionally considerate of their opponents' positions, but
9 when you say you want your coins -- suppose you were given
10 your choice to walk into the FDIC to get -- right now, to get
11 your coins. Which ones would you pick up?

12 MS. KEARNS: Well, I have the dates.

13 THE COURT: Yeah.

14 MS. KEARNS: And I would choose 20 of those dates.

15 THE COURT: You'd pick out the best ones probably,
16 right?

17 MS. KEARNS: I'm not an expert either. I might
18 take the lesser valued coins, but I don't have anything now.
19 And so it was occurring to me that maybe I ought to bring a
20 coin dealer with me to look them over.

21 THE COURT: I don't think you -- you saved yourself
22 some money if you didn't by not bring him, because I don't
23 think --

24 MS. KEARNS: Throwing good money after bad.

25 THE COURT: Yeah. Exactly. That's what this case

1 is all about.

2 MS. KEARNS: Well, this is what, you know, this is
3 my feeling. I would hope that the Court would see to it that
4 I receive my just due, and that's --

5 THE COURT: Okay. Thank you very much.

6 MS. KEARNS: Thank you.

7 THE COURT: We'll do our best.

8 MR. TAFT: May I be heard, Your Honor?

9 THE COURT: Okay, we're going to get to this
10 testimony some time, but go ahead.

11 MR. TAFT: Just real quick, Your Honor. I might
12 have misunderstood Mr. Campbell when he said he had -- if I
13 heard him right, he said he negotiated the settlement with
14 Mr. Smith on the --

15 MR. CAMPBELL: What I said was my office --

16 THE COURT: His office, yeah.

17 MR. CAMPBELL: --negotiated the settlement, on
18 behalf of --

19 THE COURT: You didn't take part in that?

20 MR. CAMPBELL: No, not the negotiations.

21 THE COURT: Okay.

22 MR. TAFT: It was for what? Did he -- just for the
23 return of the coins?

24 MR. CAMPBELL: The order speaks for itself. It was
25 the redemption coin holders, to the extent possible, if they

1 were identifiable, the coins were to be returned. To the
2 extent that it was not possible, they were to take an
3 interest in the liquidated proceeds, as I understand it.

4 MR. TAFT: And that was just from Mr. Smith
5 allowing -- helping him out?

6 MR. CAMPBELL: I'm not sure what you're asking.

7 MR. TAFT: Well, Mr. Smith never mentioned anything
8 to me that that was being done at the time. I didn't know --
9 that's why I was asking how that all came about.

10 MR. CAMPBELL: In terms of my input or my office's
11 input as far as you're concerned, prior to the signature of
12 the order, I can't speak, of course.

13 MR. TAFT: The last thing, Your Honor, is just the
14 response that came from an affidavit from -- regarding a
15 motion from (End Tape #1. Tape #2 ends without interruption
16 as follows:) Tosca's. They were talking about the
17 differences in the two inventories that were done, and they
18 admit that there was a 14 coin discrepancy between the two,
19 but the thing that I underline here that they came up with
20 the best coins to comprise the for auction. And in other
21 words, the coins were mixed up, and it says a write-in from
22 them, and I think what Mrs. Kearns is trying to ask is just
23 to return basically the coins with her mint mark and year,
24 not so much as saying her exact coins in a tube, because
25 those tubes for some reason don't seem to be around anymore,

1 so that's what I think we're all looking for. Thank you,
2 Your Honor.

3 THE COURT: Yes, sir. You want to step up, please?

4 MR. HERSEY: I just wanted to hear this. I -- like
5 Ms. Quinn here early before the Court.

6 THE COURT: Okay, what's your name?

7 MR. HERSEY: My name is David Hersey.

8 CLERK: Spell that, please.

9 MR. HERSEY: H-E-R-S-E-Y.

10 THE COURT: How long will this examination last, do
11 you think?

12 MR. MONZACK: Ten or fifteen minutes, Your Honor.

13 THE COURT: And is there going to be any cross-
14 examination, or Mr. Brodsky, do you intend to examine?

15 MR. BRODSKY: I hardly know until I hear the
16 direct.

17 THE COURT: Okay. Go ahead.

18 **BARBARA QUINN, SWORN**

19 CLERK: Please state your name for the record.

20 THE WITNESS: Barbara Quinn.

21 CLERK: Please spell that.

22 THE WITNESS: Q-U-I-N-N.

23 CLERK: Please be seated.

24 **DIRECT EXAMINATION**

25 **BY MR. CADIGAN:**

1 Q. Mrs. Quinn, would you please give me the name of your
2 employer, please.

3 A. Federal Deposit Insurance Corporation.

4 Q. What capacity are you employed?

5 A. As a credit specialist.

6 THE COURT: Let's all keep our voices up so these
7 people who traveled here can hear what's happening.

8 BY MR. CADIGAN:

9 Q. Ms. Quinn, were you the credit specialist in charge of
10 the Cumberland Investment portfolio?

11 A. Yes, I was.

12 Q. When did you take charge of that portfolio?

13 A. When the bank closed in December of --

14 MR. BRODSKY: Your Honor, please, her voice does
15 not project back here.

16 THE COURT: Can you turn up the volume at all?
17 Okay, try it now, but pretend you didn't have a mike and make
18 believe you're talking to Bill back there.

19 THE WITNESS: From the time the bank closed.

20 BY MR. CADIGAN:

21 Q. Which was in December of 1993?

22 A. December of '93.

23 THE COURT: December '93?

24 THE WITNESS: December of '92, wasn't it?

25 THE COURT: '92?

1 MR. CADIGAN: That's correct, Your Honor. Eastland
2 Bank failed in December of 1992.

3 THE WITNESS: December 11.

4 BY MR. CADIGAN:

5 Q. Do you recall, Ms. Quinn, and if you do I'd like you to
6 explain to the Court the first time you were involved in
7 taking possession of the coins, silver dollars, that were
8 the -- that comprised the Cumberland Investment inventory.

9 A. The first time we saw the coin was -- it was in the
10 vault in Cranston, Rhode Island.

11 Q. And what was in the vault?

12 A. There was -- there were coins in safe deposit boxes,
13 there was coin in -- there was loose coin in -- in -- wrapped
14 in bags. There was --

15 Q. Were there coins in canisters?

16 A. Those -- the coins that were in canisters were in safe
17 deposit boxes.

18 Q. Were the coins in canisters in safe deposit boxes, did
19 they have names on the outside, did they have bearer numbers,
20 what did they look like?

21 A. They were in canisters, they had bearer numbers on them,
22 and I mean we didn't open anything, you know, that was in
23 this --

24 Q. And those coins were segregated?

25 A. Right.

- 1 Q. And those coins were identified as redemption --
- 2 A. Redemption coins, right.
- 3 Q. How were they segregated, Ms. Quinn?
- 4 A. They were in -- in these large boxes. We kept them
- 5 separate from everything else that was in the vault.
- 6 Q. What kind of boxes were they?
- 7 A. Large safe deposit boxes. Metal boxes.
- 8 Q. Metal boxes?
- 9 A. Right.
- 10 Q. And approximately how many did they number in terms of
- 11 the metal boxes that they were contained in?
- 12 A. Must have been about four or five.
- 13 Q. At some point those coins are removed from Cranston,
- 14 Rhode Island, is that correct?
- 15 A. Right.
- 16 Q. How were they -- where were they moved to?
- 17 A. They were moved to the vault at Eastland Bank in
- 18 Woonsocket.
- 19 Q. And how were they transported from Cranston?
- 20 A. They were transported by armored car. We had -- we had
- 21 -- armed guards at the vault where they were being removed,
- 22 and at the truck where they were being -- placed.
- 23 Q. And they were removed from the truck and placed in the
- 24 vault in Woonsocket, Rhode Island?
- 25 A. Right. On the second floor in the vault in Rhode

1 Island.

2 Q. And that was at the old Eastland Bank?

3 A. Right.

4 Q. Were the redemption coins segregated in that vault?

5 A. Yes.

6 Q. And how were they segregated?

7 A. They were put off in one corner away from everything
8 else.

9 Q. Were you -- who had -- and the vault was closed at all
10 times, correct?

11 A. Right, mmhmm.

12 Q. Who had access to the vault, Ms. Quinn?

13 A. Ross Watson and myself were the only two who had the
14 combination to the vault.

15 Q. And you indicate that the vault was on the second floor.

16 A. Right.

17 Q. And how was access gained from the lobby area to the
18 second floor?

19 A. By elevator, which was locked. There was a key for the
20 elevator, so anyone on the first floor could not go up to the
21 second floor without that key.

22 Q. And who had the key?

23 A. Either Ross or I would have it.

24 Q. There were times when access to that vault was given to
25 various appraisers, correct?

1 A. Right.

2 Q. Access was given to Ramapo?

3 A. Yes.

4 Q. When Ramapo did the appraisal, would you please
5 describe how that was done -- not the appraisal, but how they
6 got access to the vault and whether there were security
7 guards there.

8 A. Right. We had security guards on the vault, we had a
9 security guard on the vault. The appraisal was done in a
10 room adjacent to the vault. We had a security guard in that
11 room at all times.

12 Q. How many -- how long did it take for Ramapo Coin
13 Exchange to do the --

14 A. I believe it took them three days.

15 Q. And then when the appraisal was concluded, they -- the
16 redemption coins only -- I'm -- I'm -- the redemption coins
17 were not appraised.

18 A. They were not appraised, no.

19 Q. They were segregated.

20 A. They were never touched.

21 Q. So when the appraisal was done by Ramapo of the coins
22 that we're now trying to sell --

23 A. Right.

24 Q. --what kind of containers were those coins in, if you
25 know?

1 A. Those were in safe deposit boxes also, but they were in
2 long narrow containers and each coin was -- was in a -- they
3 were all individually wrapped.

4 Q. Individually wrapped?

5 A. In a -- a small case, or a --

6 Q. I'm going to show you my ID badge. Something like
7 this, Ms. Quinn, where it's -- whether it's a flat with a
8 plastic --

9 A. Some were like that. Some were with a cardboard around
10 them so that you could see the coin.

11 Q. Were there any coins that were in canisters that were
12 appraised that are now for sale that were in canisters
13 similar to redemption coins?

14 A. No. No.

15 Q. So the redemption coins were in totally different
16 canisters?

17 A. Right.

18 Q. No similarity?

19 A. No.

20 Q. The coins were also -- when Mr. Monzack was appointed
21 Trustee, he was let into the vault also, wasn't he?

22 A. Right.

23 Q. And there was always somebody, either you or Mr. Watson
24 who was there at all times when the vault was open?

25 A. Yes.

1 Q. Isn't it true that signature cards had to be signed by
2 anybody who made entrance to the vault?

3 A. Right. Right.

4 Q. I believe it was in April of 1995 when the so-called
5 redemption coins were returned to Mr. Smith, is that correct?

6 A. Yes.

7 Q. Were you present that day?

8 A. Yes, I was.

9 Q. Would you describe to the Court if you can generally
10 what happened that day, that morning, when Mr. Smith arrived?
11 Mr. Smith arrived with two of his associates.

12 A. He had two associates.

13 Q. I was present.

14 A. Right.

15 Q. Mr. Monzack was there, correct?

16 A. Right.

17 THE COURT: Do we know that date?

18 MR. CADIGAN: It was April 4th, 1995.

19 THE WITNESS: Okay.

20 BY MR. CADIGAN:

21 Q. You opened the vault, as I recall, is that correct?

22 A. I opened the vault, and Mr. Smith made -- made a list of
23 all the coins he was taking.

24 Q. Okay, and he was just concentrating on --

25 A. He and his associates, right.

1 Q. -- just on the redemption --

2 A. Just on the redemption coins.

3 Q. And they took the -- they took a list of what they were
4 taking, as I recall.

5 A. Right.

6 THE COURT: You say he listed each coin?

7 THE WITNESS: I don't know if he listed each coin,
8 or just the canisters.

9 THE COURT: Okay. Did he open canisters that day,
10 that you saw?

11 THE WITNESS: I don't remember.

12 THE COURT: Come on, try. Now this is really --

13 THE WITNESS: I know. I think he did.

14 THE COURT: You think he did?

15 THE WITNESS: Mmhm.

16 MR. MONZACK: Your Honor, I was there.

17 THE WITNESS: I think he had to.

18 MR. MONZACK: There's no doubt some of the
19 canisters were opened. He opened canisters, though, that had
20 previously been opened. My recollection is he opened some
21 canisters that had previously been opened. That is, he
22 didn't have to break a seal to open them.

23 THE COURT: Okay. Is that your testimony, too?

24 THE WITNESS: Yes.

25 BY MR. CADIGAN:

1 Q. How long did that take, that inventory, Ms. Quinn?

2 A. Took the better part of the day.

3 Q. And when he had concluded the inventory, Mr. Smith
4 removed those coins under your supervision --

5 A. Right.

6 Q. -- to his truck, as I recall.

7 A. To his truck.

8 Q. And he signed a receipt?

9 A. Yes.

10 Q. And then you proceeded -- you were -- you never left the
11 vault area, as I recall --

12 A. Right.

13 Q. -- Ms. Quinn. I think I helped Mr. Smith. I --

14 A. I think -- right. I know you went down to the --

15 Q. I supervised the coins going down the elevator and into
16 the truck.

17 A. Into the truck.

18 Q. And you remained in the vault.

19 A. Right.

20 Q. And after Mr. Smith left, we collected our things and
21 you closed the vault.

22 A. Yes.

23 Q. And locked it.

24 A. Mhmm.

25 Q. And we left the premises.

1 A. Right.

2 Q. At some point thereafter, we had permission from this
3 Court to remove those coins from the vault to Christie's
4 Auction House in New York, is that correct?

5 A. Yes, mmhmm.

6 Q. And you were present that day, weren't you?

7 A. Yes, I was.

8 Q. Do you recall if that was in May of '95?

9 A. Yes. Yes, it was.

10 Q. May of '95, the end of May?

11 A. Right.

12 Q. And as I got to the bank that morning, there was a gray
13 semi --

14 A. There was a semi-truck, right.

15 Q. With three armed guards present?

16 A. Yes, mmhmm.

17 Q. Mr. Monzack showed up?

18 A. Yes.

19 Q. And you let us into the second floor area, and opened
20 the vault --

21 A. We opened the vault, right.

22 Q. And what happened thereafter, Ms. Quinn?

23 A. The guards loaded the coin on dollies, took them
24 downstairs. At all times there was someone -- I stayed
25 upstairs, Ross would go down with -- with the guard. They

1 loaded them on the truck.

2 Q. Was there always an armed guard from Brinks in the vault
3 with you, Ms. Quinn?

4 A. Yes. Mnhmm. There were three.

5 Q. That process took about how long to physically remove
6 the items from the vault to the truck?

7 A. I think they were there from eight o'clock in the
8 morning until three o'clock in the afternoon.

9 Q. And they were -- a receipt was signed by --

10 A. Yes, mmhmm.

11 Q. -- Brinks? Mr. Monzack was there at all times?

12 A. Yes.

13 Q. As well as yourself?

14 A. Mnhmm.

15 Q. Mr. Watson?

16 A. Right.

17 Q. And myself?

18 A. Yes.

19 Q. And the truck left around three?

20 A. Mnhmm.

21 Q. And as I recall -- did you lock the vault at that time,
22 or did you turn the keys over to the manager of the bank, as
23 I recall? Do you remember?

24 A. I think we left the door open, and there were no keys for
25 the vault.

1 Q. But there was nothing in the vault.

2 A. No, it was empty.

3 Q. I have no further questions.

4 BY MR. MONZACK:

5 Q. I do want to clarify one thing, Ms. Quinn. Do you
6 recall -- I mean, some of the redemption coins, in fact, you
7 may recall, were used I believe in a criminal proceeding and
8 were used as evidence?

9 A. That's right.

10 Q. So some of the canisters were opened, and some coins
11 were semi-loose in --

12 A. Mmhm.

13 Q. -- like a plastic baggie?

14 A. Yes.

15 Q. And some of those coins within their redemption coin
16 class were sub-classified as coins that were in fact marked
17 for evidence --

18 A. That's right.

19 Q. -- by the U.S. Attorney's Office and/or the FBI?

20 A. Yes.

21 THE COURT: Well, what happened with those? Did
22 you get them back?

23 THE WITNESS: Yes, they returned them.

24 MR. MONZACK: Those were also returned, Your Honor,
25 and they were identified as redemption coins, and I just want

1 to make it clear what these coins looked like. Some were in
2 these canisters as shown to you. Some were sort of attached
3 to a canister --

4 THE WITNESS: Some were in a baggie.

5 MR. MONZACK: -- with a plastic baggie attached to
6 it and had coins in it marked as exhibits in a criminal
7 trial, so some of these coins were used as exhibits in a
8 criminal trial, and therefore some -- I'm presuming that's
9 why some of the canisters were opened. I don't know how or
10 when they were opened, and some were loose out of the
11 canisters but attached to the canister in the baggie having
12 been used for evidence in the criminal proceeding.

13 THE COURT: But they all came back before Mr. Smith
14 came and got them?

15 THE WITNESS: Yes.

16 MR. MONZACK: They were in the vault.

17 THE COURT: Yeah.

18 MR. MONZACK: That's right.

19 THE COURT: Yeah. Okay.

20 MR. CADIGAN: Just one more question, Your Honor.

21 BY MR. CADIGAN:

22 Q. Ms. Quinn, so none of the non-redemption coins were in
23 canisters that were similar to the redemption coins?

24 A. Not that I remember.

25 Q. Thank you.

1 MR. BRODSKY: What was your answer?

2 THE WITNESS: Pardon me?

3 MR. BRODSKY: I didn't get the answer to that.

4 THE WITNESS: No.

5 CROSS-EXAMINATION

6 BY MR. BRODSKY:

7 Q. When Eastland closed, was that when your office took
8 jurisdiction over the property of the bank?

9 A. Yes.

10 Q. So that prior to December '92, it's a fair statement to
11 say that you personally had no knowledge of anything about
12 Cumberland Coins, is that right?

13 A. That's right.

14 Q. And how did you come about to go down to the vault in
15 Cranston? What prompted you to do that?

16 A. We found out that we had a vault that was part of our --
17 part of our inventory.

18 Q. When you say "our inventory," you mean --

19 A. FDIC.

20 Q. -- Eastland's inventory.

21 A. Well, it was Eastland's, but it became property of the
22 FDIC.

23 Q. Yes, it became yours, so that you learned that Eastland
24 had a vault in Cranston. Was that with Fleet?

25 A. That's where Fleet is now.

1 Q. Yes. Had a vault in Cranston containing property --

2 A. We didn't know what it was.

3 Q. You didn't know what it was, and so when you personally
4 went down to the vault, what did you observe generally?

5 A. It was a vault. The vault was full.

6 Q. Yes, but what did you observe in the vault? What did
7 you see there?

8 A. Stacks of safe deposit boxes -- coin.

9 Q. Now when you say "coin," did you expect to see coins
10 when you went there?

11 A. We didn't know what was in it.

12 Q. And what did the coins appear -- did they appear loose,
13 were they in containers?

14 A. Everything was in containers, except for the wrapped
15 coin that was in bags.

16 Q. We'll get to the bags in a moment. Now you mentioned
17 that you saw some in containers.

18 A. Right. Some were --

19 Q. Little plastic containers.

20 A. No, no, not the -- not the plastic.

21 Q. What did you see them in?

22 A. They were in -- some were in ammunition boxes.

23 Q. Yes.

24 A. And the silver dollars were in long safe deposit boxes.

25 Q. Loose or in containers?

1 A. In -- in narrow -- long narrow boxes with two rows of
2 coin in each box and they were individually wrapped. But
3 they weren't the wrapped -- the plastic canisters.

4 Q. Did they have any identification?

5 A. They were just marked --

6 Q. Other than the year. I don't mean that.

7 A. No, just with the year.

8 Q. Just with the year, so that you saw coins that had 1880
9 or 1890 or whatever.

10 A. Right. That's right.

11 Q. You mentioned something about redemption coin holders
12 with bearer numbers. Where did you see those?

13 A. Those were -- those were also in safe deposit boxes.

14 Q. So that you saw some with numbers on it.

15 A. Well, we had to open them, the safe deposit boxes, to
16 see.

17 Q. I assume that you had to open them. When you opened up
18 these containers that held coins, did you see some in plastic
19 containers?

20 A. I'm not sure if we opened those, but some of them --

21 Q. How did you identify them to be redemption coin holders
22 with bearer numbers? How did you know that?

23 A. I don't think we knew that at first. They were marked
24 as evidence and we didn't touch them. Those that had been
25 marked by the FBI as evidence.

1 Q. So that when you came down after December '92, there was
2 a criminal case pending?

3 A. Yes.

4 Q. Well, how were you able -- you testified that you set
5 aside those with bearer numbers, how did you know to set
6 aside something with so-called bearer numbers?

7 A. We set aside the boxes that were marked as evidence and
8 found out later that those were -- had -- were bearer
9 numbers.

10 Q. Now did you understand what bearer number meant?

11 A. No.

12 Q. Do you know what it means now?

13 A. I know what it means now.

14 Q. What does it mean now?

15 A. It belongs to whoever purchased that.

16 Q. Exactly. So that when you saw coins there in the vault,
17 some of them already were in the possession of the United
18 States District Attorney in a prosecution case, is that
19 right?

20 A. Yes.

21 Q. Did you take possession of those?

22 A. They were there. We didn't touch them.

23 Q. Well, which ones did you take possession of and ship up
24 to Woonsocket?

25 A. We moved everything that was in there.

1 Q. Including the F -- the United States District --

2 A. We had permission to move those.

3 Q. I beg pardon?

4 A. We had permission to move --

5 Q. So you moved everything, is that right? Well, how did
6 you know what was belonging to so-called redemption coin
7 holders --

8 A. They were segregated. We kept them segregated.

9 Q. Who segregated them? Do you know?

10 A. Well, as we moved them, we knew which -- we could tell
11 which ones were the redemption coins.

12 Q. How could you tell they were coin -- redemption coin
13 holders? Did somebody explain that to you? How did you
14 learn that?

15 A. The FBI and the Postal Inspector had been in there, and
16 they -- they showed us which --

17 Q. So that after a concert of opinions, you believed that
18 some were so-called redemption coin holders' coins, is that
19 right? Did you compile a list?

20 A. No.

21 Q. Is there any reason why you didn't?

22 A. We knew they didn't belong to us.

23 Q. I didn't ask you that. Is there any reason why you
24 didn't compile a list that these were so-called bearer
25 numbers belonging to redemption coin holders? Is there any

- 1 reason why you didn't -- so you say when you put them aside,
2 you don't know how many you put aside, is that right?
- 3 A. We put aside everything that was in the --
- 4 Q. Well, how many did you put aside?
- 5 A. I don't know. I don't know the number.
- 6 Q. Now I dare say that you took every care -- I say you,
7 FDIC -- took every care to have armored cars bring them to
8 Woonsocket. When they got to Woonsocket, did you compile a
9 list?
- 10 A. No.
- 11 Q. So what did you do when Smith came around? Just gave
12 him what you believed to be bearer numbers belonging to
13 redemption coin holders?
- 14 A. We made a list at that time.
- 15 Q. Where is that list? Do you have it?
- 16 A. I believe so.
- 17 Q. I beg pardon?
- 18 A. I think I do.
- 19 Q. Do you have it with you now?
- 20 A. No.
- 21 Q. So you do have a list of what you gave to Mr. Smith, is
22 that right?
- 23 A. No, Mr. Smith made a list.
- 24 Q. Did you make the list?
- 25 A. No.

1 Q. So that when Mr. Smith made the list, did he give you a
2 copy?

3 A. I think I have the list that he made.

4 Q. I didn't hear you, ma'am.

5 A. I have the list that he made.

6 Q. Now evidently that cannot be presented today, but would
7 that list show anything other than a bearer number and the
8 amount -- the number of coins, or would it show bearer
9 number, number of coins, perhaps coin holder's name?

10 A. No, it didn't have any of that information.

11 Q. What did it have?

12 A. I'm not sure.

13 THE COURT: Is that list by chance in court, Mr.
14 Cadigan, or somebody from FDIC have a copy of it? Mr.
15 Monzack?

16 MR. BRODSKY: I have been seeking that.

17 MR. MONZACK: There is no list with people's names,
18 because that's --

19 THE COURT: No, the list that the witness says Mr.
20 Smith gave her.

21 MR. MONZACK: The list that Mr. Smith prepared -- I
22 believe I have a copy of -- I probably have a copy -- may
23 even have a copy of it with me. I brought most of my files,
24 not all of them, with me.

25 THE COURT: Okay.

1 MR. MONZACK: That list, though -- I forget now how
2 it was marked up, but that list was made up of bearer numbers
3 from perhaps claims that were filed in the Bankruptcy Court,
4 but it doesn't coincide with the bearer numbers that were
5 turned over because as it's been --

6 THE COURT: What it says is one thing. I'm just
7 trying to locate if you can the list that this witness just
8 referred to that was made up by Mr. Hershel Smith when he
9 took these coins with him, and we're going to find that out
10 at two o'clock because it's lunch time.

11 MR. SMITH: (?) Your Honor, tomorrow morning I have
12 a preliminary injunction hearing before Judge Lageur
13 (phonetic), and we're meeting with counsel to mark and agree
14 to exhibits this afternoon. I don't think I can afford
15 anything --

16 THE COURT: You're excused. If you're before Judge
17 Lageur, by all means.

18 MR. SMITH: (?) Thank you, Your Honor.

19 MR. BRODSKY: Did you say two o'clock this
20 afternoon?

21 THE COURT: Right. Step down.

22 (Off the record at Tape #2, Index #1511)

23 * * * * *

24 (On the record at Tape #2, Index #1512)

25 THE CLERK: Be seated.

1 THE COURT: You're still under oath.

2 THE WITNESS: Yes.

3 BY MR. BRODSKY:

4 Q. To pick up a thread, Ms. Quinn, from the recess -- you
5 testified that you, "you" meaning FDIC, did not make a list
6 or an inventory of coins that you believed to be redemption
7 coin holders' property, is that right?

8 A. Yes.

9 Q. And when they finally got to Woonsocket, was it in
10 Woonsocket that Mr. Smith appeared to -- for acceptance?

11 A. I'd like to clarify something I said earlier.

12 Q. Please do. With the Court's permission, of course.

13 A. The reason we didn't make a list, we were instructed by
14 the FBI not to touch the redemption coins, and we didn't.

15 Q. Have you finished with your explanation?

16 A. Well, I just wanted you to know --

17 Q. Well, I may get to that in a moment.

18 A. All right.

19 Q. Mr. Smith came to Woonsocket, did he not?

20 A. Right.

21 Q. To accept the coins.

22 A. Right.

23 Q. Were you there personally?

24 A. Yes.

25 Q. Were you the responsible person who handed them over to

1 Smith, or was it someone else? Responsible person on behalf
2 of FDIC.

3 A. Well, I guess I was, yes.

4 Q. All right. Don't be ashamed of it. It's very
5 important, and I think you did a credible job in that. Now
6 when you gave the coins to Mr. Smith, you had no accounting
7 of your own, did you not?

8 A. No.

9 Q. Is that right?

10 A. That's right.

11 Q. When you gave the coins to Mr. Smith, did you perhaps
12 ask him for a receipt of what he received?

13 A. Yes. Yes.

14 Q. What kind of a receipt did he give you?

15 A. We had a receipt made out.

16 Q. And what did the receipt generally say?

17 A. That we were receiving all of the redemption coins over.

18 Q. Were they listed?

19 A. No.

20 Q. Do you happen to have a copy of that, or the original of
21 that receipt? You shake your head --

22 A. I don't have it with me.

23 Q. Would that receipt perhaps have read, "Received of FDIC or
24 Ms. Quinn, redemption coins"? Just --

25 A. I'm trying to think how it read. It -- it -- I'm sure

1 it said, "Redemption -- redemption coins."

2 Q. Probably no more than saying, "Received of FDIC,
3 redemption coins." Is that right? You shake your shoulders.

4 A. Yes. I -- there was no list of them at that time, so --

5 Q. Did you ever see a list that related to redemption coin
6 holders? Any printed list?

7 A. Well, Mr. Smith made a list the day that the coins were
8 picked up.

9 Q. I think at the recess --

10 A. Right, and he did come -- I don't know just when -- the
11 first time he came to look at the coin -- at the redemption
12 coins, we had a list of the-- of the claimants.

13 Q. "Claimants" meaning those who were filing claims with
14 this Bankruptcy Court?

15 A. Who had filed a claim, right.

16 Q. I'm not talking about that, Ms. Quinn. I'm talking
17 about a list of coins that would be -- that you set aside as
18 being redemption coin holders.

19 A. No. No.

20 Q. And when Mr. Smith finally gave you that receipt --
21 incidentally, how many times was he there with reference to
22 these coins before he took full possession?

23 A. Two or three.

24 Q. In any event, did you ever see a list containing
25 identification either by bearer number or numbers of coins or

1 coin holders that related to redemption coin holders? You're
2 shaking you head. Is that "No"?

3 A. Just the list that was made up by Hershel and the FDIC
4 together from the list of claimants.

5 Q. When did the FDIC join with Smith in making up a list of
6 redemption coin holders, to your knowledge?

7 A. When Smith came into the vault to look at the coin, he
8 wanted to make a list of the coin.

9 Q. Go ahead.

10 A. And we had a list of claimants that would --

11 Q. Where is that list of claimants?

12 A. I think -- do you have a copy of it?

13 MR. MONZACK: We gave Mr. Brodsky a list.

14 MR. BRODSKY: Yeah, two minutes ago you gave me a
15 sheaf of papers. You tell me which one is the names of the
16 claimants.

17 THE COURT: Gentlemen, let's have a question to the
18 witness.

19 BY MR. BRODSKY:

20 Q. Was there a list of claimants made up by FDIC?

21 MR. CADIGAN: Your Honor, if it please the Court,
22 I'm probably the one that should be responding to these --

23 MR. BRODSKY: Well, if she doesn't know -- she says
24 "I don't know."

25 MR. CADIGAN: It was --

1 THE COURT: Hold it, please.

2 MR. CADIGAN: I'm sorry, Your Honor.

3 THE COURT: Do you object to the question?

4 MR. CADIGAN: I do, Your Honor, I object to the
5 question.

6 THE COURT: What's the grounds?

7 MR. CADIGAN: Well -- I withdraw the objection.

8 BY MR. BRODSKY:

9 Q. Let me get to the point. Have you ever seen this sheaf
10 of papers stapled together, five in number? I believe Your
11 Honor may have --

12 A. Right.

13 Q. Yes. Have you seen that?

14 A. I hadn't seen this one, no.

15 Q. Is this the first time you've seen it?

16 A. In this form. I believe this is the list that -- that
17 Hershel made, but he had it --

18 Q. Ms. Quinn, I don't care who made it up. Is this the
19 first time you've seen this --

20 A. This particular one.

21 Q. These here?

22 A. Yes.

23 Q. How do you interpret on top "Coins signed for" which is
24 in typing, then "that do not have identifiable owners"? Who
25 put that in? Do you know?

1 A. No. I don't know whose writing that is.

2 Q. And you're seeing this now for the first time? Were
3 there therefore perhaps two lists: identifiable owners and
4 non-identifiable owners?

5 A. No, I -- I believe he made the handwritten list and he
6 had it transferred to this.

7 Q. Did he give you that handwritten list?

8 A. No.

9 Q. So that you believe he made -- he made up these five
10 sheets of paper? I say -- I should refer to them as an
11 exhibit for identification, I suppose, Your Honor, unless
12 Your Honor can identify them.

13 THE COURT: No, we'll call this spiving
14 (phonetic) --

15 MR. BRODSKY: On behalf of the redemption coin
16 holders, and I don't represent them as a counsel, but I'm
17 here in that capacity at least as far as the *amicus curiae*
18 that this is an exhibit for identification, perhaps #1 on
19 behalf of the redemption coin holders.

20 THE COURT: So marked.

21 WHEREUPON EXHIBIT #1 WAS MARKED FOR IDENTIFICATION
22 BY MR. BRODSKY:

23 Q. Is there another list that contains redemption coin
24 holders identification either by bearer number or name or
25 identification of coins?

1 A. I believe Attorney Cadigan gave you one.

2 Q. I beg your pardon?

3 A. I believe Attorney Cadigan gave you a list.

4 Q. You pick out which ones you believe contain the names of
5 identification of owners or by bearer numbers of redemption
6 coin holders. And I would have done the task myself, Ms.
7 Quinn, if I had been given that when I first requested it
8 after January 4.

9 A. This is a list of claim numbers.

10 Q. Which of those three packages contains identification of
11 redemption coin holders either by name or bearer number?

12 A. I don't know. I didn't make the list.

13 Q. How would you know, Ms. Quinn, therefore, that coins
14 that your agency is seeking to sell may not be also including
15 redemption coin holders' coins?

16 A. Because the redemption coins were always segregated from
17 the rest of the coins.

18 Q. But you don't have a list of your own that you made up,
19 is that right?

20 A. No, I don't have a list.

21 Q. Now the coins that were finally sent down to Christie's--

22 A. Mmmmm.

23 Q. -- were they taken out of containers? Any form of
24 container?

25 A. No, the containers was --

1 Q. I don't hear you, ma'am.

2 A. No, they weren't.

3 Q. Well, how were they delivered to Christie's? I don't
4 mean physically. In what form? Were they in bags, in
5 cellophane? In containers?

6 A. They were just the way we found them in the vault.

7 Q. Well, how did you find them in the vault?

8 A. I told you, in the -- they were in steel safe deposit
9 boxes.

10 Q. When you say sealed safe deposit --

11 A. Steel. Steel.

12 Q. Sealed.

13 THE COURT: Steel.

14 THE WITNESS: Steel.

15 BY MR. BRODSKY:

16 Q. And do they contain any identification other than the
17 year?

18 A. No.

19 Q. Nothing at all?

20 A. No.

21 Q. Who told you that certain coins, however marked, by
22 bearer number or name, were redemption coin holders' coins?
23 Who told you that?

24 A. The FBI.

25 Q. The FBI?

1 A. Yes.

2 Q. So that you are testifying today that you set aside
3 something that FBI said to you belonged to the redemption
4 coin holders, is that right?

5 A. Right. Yes.

6 Q. Would you know now or even then that perhaps some of the
7 coins that were not set aside by FBI might have been
8 redemption coin holders?

9 A. None of them were marked.

10 Q. I'm not asking about marking. Would you know of your
11 own knowledge, other than what the FBI said to you, "These
12 belong to the redemption coin holders," that some of them
13 that were not pointed out to you by FBI might have also been
14 redemption coin holders' property?

15 A. No.

16 Q. You don't know. When you sent the material -- strike
17 that -- when you sent the coins to Christie's, did you make
18 out an inventory? I say "you"; I meant FDIC.

19 A. I know. We checked off each box as it left.

20 Q. Did you make up an inventory? There has been -- while
21 you're thinking of the answer, there's been a suggestion here
22 made that Christie's has perhaps 8700 coins.

23 A. Right.

24 Q. Do you have a list of those --

25 A. We have an appraisal.

- 1 Q. Where is that list?
- 2 A. We have an appraisal.
- 3 Q. Well, who made up the appraisal?
- 4 A. The appraiser, an appraiser.
- 5 Q. Somebody that you engaged?
- 6 A. Yes.
- 7 Q. And he gave you a report, did he not?
- 8 A. Right.
- 9 Q. Did he list it by each coin --
- 10 A. Each coin.
- 11 Q. -- or merely 8700 coins --
- 12 A. No, each coin.
- 13 Q. -- worth four million dollars.
- 14 A. Each coin.
- 15 Q. Each coin. Do you have that list?
- 16 A. Do you have a -- I believe Mr. Cadigan has a copy of it.
- 17 MR. MONZACK: If I may? We have a lot of lists.
- 18 We have the list that Ramapo did. We have the list that
- 19 Christie's did. We have the list that was done jointly by
- 20 myself and the FDIC before we let Christie's take the coins.
- 21 There are -- we have the list we just turned over to Mr.
- 22 Brodsky. We have innumerable different types of lists, and I
- 23 don't know where this is all headed. We have a bunch of
- 24 different lists that talked about these coins that were non-
- 25 redemption coins.

1 THE COURT: Well, are any of the lists that you
2 have, would they be responsive to any requests that Mr.
3 Brodsky made before today? He said he asked for something
4 back in January.

5 MR. MONZACK: It's my understand, I know Mr.
6 Cadigan did send a list, I presented more lists to Mr.
7 Brodsky today. Uh, but these are lists of -- for instance,
8 the list, Mr. Brodsky would like an explanation of the list
9 that was --

10 MR. BRODSKY: If I may interject, my question is
11 the inventory list that was sent forth by FDIC to Christie's.
12 The list. I don't care who made the appraisal and who
13 compiled it. But there is a list to show that Christie's has
14 8700 coins and the identification of them.

15 MR. MONZACK: This, Your Honor, is a list provided
16 by Christie's of all the coins broken down by the number of
17 coins, the date of the coin, and the approximate value that
18 Christie's expects to get for the coin at auction. I believe
19 this was provided to Mr. Taft.

20 THE COURT: What is that number, by the way?

21 MR. MONZACK: Total number of coins?

22 THE COURT: Total number -- the total expected sale
23 price.

24 MR. MONZACK: It's a range, and the total aggregate
25 range is between \$99,290.00 and \$148,280.00, and Christie's

1 goes on to say -- I think it was sort of a self-promotion,
2 but we think we can do better than that at auction, so I
3 think their proposal is probably conservative. But that's
4 their aggregate pre-sale estimate.

5 THE COURT: Thank you. Okay, why don't we have
6 another question.

7 BY MR. BRODSKY:

8 Q. Is that list that was sent to Christie's available for
9 inspection by the redemption coin holders? We either have
10 the list or we don't.

11 THE COURT: I'm not sure she said that FDIC sent a
12 list. If you established that already, I'll back off, but I
13 don't -- I'm not sure I heard the witness say that.

14 MR. MONZACK: If I can just briefly respond. Mr.
15 Brodsky --

16 MR. BRODSKY: Before the witness answered, Counsel
17 stood up and said we have a bunch of lists.

18 THE COURT: Right. Mhmm.

19 MR. BRODSKY: I'm only concerned about the list
20 that went to Christie's.

21 THE COURT: Okay, is there such a list, Ms. Quinn?

22 THE WITNESS: I don't think so. I can't remember.
23 Let's see -- I don't remember.

24 MR. BRODSKY: Your Honor, I think you've -- the
25 Court must have gotten the gist of this, and I would prefer

1 to address myself other than the questioning -- examining of
2 this witness. It's frustrating that these records are not
3 here and it's frustrating that I feel that I haven't been
4 able to learn the identity of coins that have been sent out
5 to Christie's, and perhaps from that list the coin holders
6 could be somewhat satisfied that their coins are not included
7 there.

8 MR. MONZACK: Your Honor, Mr. Brodsky says he
9 doesn't represent redemption coin holders. Mr. Taft has been
10 very active on behalf of himself, perhaps we could say on
11 behalf of other redemption coin holders. We gave Mr. Taft
12 the complete list of coins in the possession of Christie's.
13 That's what he uses the basis for his objection he filed with
14 the Court. Nobody's trying to hide anything from anyone.
15 I'm not sure who represents who here. We provided Mr. Taft a
16 total list of coins in Christie's possession.

17 THE COURT: Are we finished with this witness?

18 MR. BRODSKY: I have no other questions, Your
19 Honor.

20 MR. CADIGAN: I'd like to redirect, so.

21 REDIRECT EXAMINATION

22 BY MR. CADIGAN:

23 Q. Ms. Quinn, I just want to make perfectly clear, when you
24 arrived as an FDIC representative upon the failure of
25 Eastland Bank to the vault in Cranston, was the FBI present

1 that day?

2 A. Yes.

3 Q. Yes.

4 A. Yes.

5 Q. And who was the FBI agent present?

6 A. John Treslow.

7 Q. And was a postal inspector present?

8 A. Yes.

9 Q. And what was his name?

10 A. Steve Rothmitch.

11 Q. And you were present?

12 A. Yes.

13 Q. And who else was present? Mr. Watson?

14 A. Ross Watson.

15 Q. And were there other people from either the FDIC or the
16 government there as you recall?

17 A. We may have had one other FDIC person.

18 Q. And when you went into the vault, did Mr. Treslow, the
19 FBI agent, have any instructions for you?

20 A. Yes.

21 Q. What did he --

22 A. He pointed out the canisters that held the redemption
23 coins. He sealed them.

24 Q. How do you mean sealed them?

25 A. He put evidence tape around the boxes.

1 Q. And Mr. Treslow, an FBI agent, told you those were
2 redemption coins.

3 A. Redemption coins.

4 Q. And that you were not to -- not to look at them or
5 inventory them?

6 A. Right.

7 Q. Or do anything with them?

8 A. Right.

9 Q. And he put a tape around them.

10 A. Yes.

11 Q. To segregate them.

12 A. Yes.

13 Q. When they were removed from the Cranston location to the
14 Eastland Bank in Woonsocket, were the redemption coins moved
15 with the rest of the coins?

16 A. Yes.

17 Q. Was an FBI agent present?

18 A. Yes, there was.

19 Q. And who was the FBI agent?

20 A. John Treslow.

21 Q. Was a postal inspector present?

22 A. No, he wasn't there that day.

23 Q. Besides the FBI agent and --

24 A. He had two other agents with him, but I don't know their
25 names.

- 1 Q. All right, so there were three FBI agents present?
- 2 A. Right.
- 3 Q. And you were present?
- 4 A. Yes.
- 5 Q. Anyone else from the FDIC present?
- 6 A. Uh, I don't think Ross was there that day. Uh...
- 7 Q. And those were moved by what? By armored car?
- 8 A. Armored car.
- 9 Q. Okay. And did the FBI agents accompany you to
- 10 Woonsocket?
- 11 A. Yes, they did.
- 12 Q. Were they there when the redemption coins were put into
- 13 the vault?
- 14 A. Yes.
- 15 Q. And when they were put into the vault, did the FBI
- 16 agents do anything with the coins?
- 17 A. No, they just -- they didn't touch them. They just --
- 18 Q. Did they put any tape --
- 19 A. They were taped.
- 20 Q. They segregated them?
- 21 A. They were segregated, they were taped, and the lids were
- 22 sealed.
- 23 Q. And did they give you any instructions about those
- 24 redemption coins?
- 25 A. They said not to inventory them.

1 Q. Not to inventory them. At the time that Mr. Smith
2 removed the coins on April 4th, the question has come up
3 about a receipt being signed, is that correct?

4 A. Yes.

5 Q. Do you know who prepared that receipt?

6 A. I don't remember.

7 Q. It was prepared by the legal division.

8 A. Right.

9 Q. And -- and -- and do you know who signed the receipt?
10 You didn't sign the receipt, did you?

11 A. I don't think so.

12 Q. Did Mr. Monzack sign it, as you recall?

13 A. Yes.

14 Q. Did Mr. Smith sign it?

15 A. Yes.

16 Q. Do you know if anybody else that signed it other than
17 those two?

18 A. I don't remember anyone else signing it.

19 Q. For the record, I may have signed it also.

20 MR. CADIGAN: I have no further questions.

21 **RECROSS EXAMINATION**

22 **BY MR. MONZACK:**

23 Q. During an affidavit that you had signed and presented as
24 a response to my motion, you had put down here from December
25 1993 until January 1996.

1 A. Mmmmm.

2 Q. These were under your charge.

3 A. Right.

4 Q. You just testified it was December 1992, not January.
5 Just for my --

6 A. What was the date in there?

7 Q. Just for my own record, I want to get this --

8 A. Okay, what was the date on that?

9 Q. I believe your signed affidavit, you put December of
10 1993. On testimony, you testified --

11 A. I'm sorry, it should be '92.

12 Q. It should be '92?

13 A. It should be '92.

14 Q. So prior to December of 1992, you had no contact with
15 these coins whatsoever?

16 A. No.

17 Q. How did the FDIC obtain inventory of the Cumberland
18 assets originally?

19 A. The bank failed.

20 Q. And so they went in and took all the inventory?

21 A. Right.

22 Q. Was there any, to your knowledge, was there any
23 inventory taken when they, you know, a precise inventory when
24 they took the inventory from the Cumberland?

25 A. Oh, I don't -- I wasn't involved with it then.

1 Q. Okay. The bank was taken over in 1992?

2 A. Right.

3 Q. Were there any -- do you know, to your knowledge, was
4 there any cease or desist orders in effect prior to December
5 of 1992?

6 A. I don't know.

7 CLERK: Excuse me. Ms. Quinn, please speak
8 directly into the microphone.

9 THE WITNESS: Okay.

10 CLERK: Thank you.

11 BY MR. MONZACK:

12 Q. Have you ever seen an inventory done by the FDIC?

13 A. Yes.

14 Q. Like this here?

15 A. Yes.

16 MR. CADIGAN: Can I look at that?

17 MR. MONZACK: Yeah, sure. This was given to me by
18 Mr. Lutes. This was prior to the auction in 1991 by the FDIC
19 and it didn't make any sense to me, the bank being taken over
20 in '92 and this is in '91 prior to an auction.

21 BY MR. MONZACK:

22 Q. But your first recollection of the FDIC taking over the
23 bank was 1992?

24 A. What was the date? I'm not sure now.

25 Q. To your recollection, the bank was taken over, or the

1 assets of the bank were taken over to your knowledge in 1992?

2 A. It was when the bank closed. Was it December of -- was
3 it December of '91?

4 MR. CADIGAN: For the record, Eastland Bank --
5 Eastland Bank failed in December of 1992.

6 THE WITNESS: I believe --

7 MR. CADIGAN: December of '92 it failed and was
8 taken over by the FDIC.

9 MR. TAFT: And my question, at that point, and I
10 can place this into exhibit if you would like, Your Honor,
11 there was an inventory done by the FDIC, and maybe I don't
12 understand the legal parts of somebody going in, you know --
13 this was an inventory taken.

14 MR. CADIGAN: I don't know who took it. It appears
15 to be -- it appears to be a --

16 THE WITNESS: What is the date on that?

17 MR. CADIGAN: Maybe we should show it to the
18 witness to see if she --

19 MR. TAFT: Oh, okay.

20 MR. CADIGAN: --recollects what it is.

21 MR. TAFT: Sure. May I approach the --

22 THE COURT: Sure.

23 THE WITNESS: Where is the date on it?

24 MR. TAFT: This was -- this was a list that was
25 given to me by Attorney Lutes showing an auction that took

1 place in 1991. I can get the dates that that was compiled.

2 THE COURT: But there are no dates on this?

3 MR. TAFT: On here, there are not.

4 THE WITNESS: This is an inventory that the FDIC
5 made of what was in the vault.

6 MR. TAFT: Do you know when that was done?

7 THE WITNESS: That was done after '92. After
8 December of '92.

9 MR. TAFT: Can that be placed in as an exhibit,
10 Your Honor?

11 THE COURT: Negative. It's not authenticated. The
12 dates that were attributed to it came from Mr. Lutes,
13 apparently originally from Mr. Chorney. It's totally
14 unreliable.

15 MR. TAFT: Do you know of any of the --

16 THE COURT: Oh, I'm sorry, it may be marked as an
17 exhibit for identification, but not as a full exhibit. And
18 Mr. Brodsky's exhibit, can we call it a full exhibit?

19 MR. BRODSKY: Yes, I was going to move later. It
20 may be made full now. I'd appreciate it.

21 MR. TAFT: Thank you, Your Honor.

22 WHEREUPON EXHIBIT B WAS ADMITTED INTO EVIDENCE

23 RECROSS-EXAMINATION

24 BY MR. TAFT:

25 Q. To your knowledge, well, strike that. May I ask if

1 she's seen this, Your Honor?

2 THE COURT: Sure.

3 MR. CADIGAN: May I take a look at that?

4 MR. TAFT: Oh, I'm sorry.

5 (Pause)

6 BY MR. TAFT:

7 Q. Have you ever seen this before?

8 A. No. No.

9 Q. All right, I was going to ask if you knew of any
10 collateral coins that were moved from Eastland-Woonsocket to
11 Eastland in Cranston.

12 MR. CADIGAN: Objection to the form of the
13 question.

14 BY MR. TAFT:

15 Q. Do you know of any collateral coins that were moved
16 since your control or charge or whatever --

17 A. Mmhhh.

18 Q. -- of collateral coins from Eastland-Woonsocket to
19 Eastland-Cranston.

20 A. No.

21 Q. On that sheet that I just gave you, could you read for
22 the Court how many coins were moved?

23 MR. CADIGAN: Objection, Your Honor.

24 THE COURT: Sustained.

25 THE WITNESS: I don't know where this came from.

1 MR. TAFT: Okay.

2 BY MR. TAFT:

3 Q. So would you know of any coins being sent by the FDIC,
4 collateral coins, from Woonsocket to Cranston?

5 A. No.

6 MR. TAFT: Just for, Your Honor, just for
7 identification, can that be marked?

8 THE COURT: It's been marked for identification.

9 MR. TAFT: Thank you.

10 THE COURT: It's going to be -- what is it, Taft
11 Exhibit? Exhibit B for identification. It's already been
12 marked in magic marker type stuff Exhibit K. So that will
13 further identify it.

14 MR. TAFT: Just a last thing, Your Honor, and I
15 don't know how to go about this, because I'm not an attorney.
16 My original motion that I presented and I received a response
17 from Mr. Monzack, I had compiled a complete cross-reference
18 between the two inventories from the Ramapo and Christie's
19 totals, which it supports my original motion, and I did want
20 to submit it as either identification or exhibit for the
21 Court.

22 THE COURT: Do you object to this being -- do you
23 know what it is?

24 MR. MONZACK: I know what it purports to be. I
25 don't know -- won't vouch for its accuracy.

1 THE COURT: No, I'm not asking you to do that.

2 MR. MONZACK: Except Mr. Taft says he prepared
3 this; I believe Mr. Taft that he prepared this comparison.

4 THE COURT: Okay. I'm not asking you for any
5 warranties. We're talking about admissibility now. May it
6 be an exhibit? Or do you need to cross-examine Mr. Taft on
7 how he did it or from what, et cetera?

8 MR. MONZACK: I would imagine if Mr. Taft wants
9 this as an exhibit, and yeah, I'd like to know exactly how he
10 did it.

11 THE COURT: Okay, we'll mark it for identification
12 right now, and then you may have to testify to --

13 MR. TAFT: Thank you, Your Honor.

14 THE COURT: -- to try to authenticate that.

15 MR. TAFT: Thank you. That's all, Your Honor.
16 Thank you.

17 RE-REDIRECT EXAMINATION

18 BY MR. CADIGAN:

19 Q. Ms. Quinn, I just want to make it as clear as possible
20 the kinds of canisters that the redemption coins were in
21 versus the kinds of packaging and canisters that the -- all
22 the other coins were in. Were the canisters containing the
23 redemption coins different?

24 A. Yes.

25 THE COURT: When you say canisters, are you

1 referring to the plastic tubes?

2 THE WITNESS: Yes.

3 THE COURT: Is that -- or the safe deposit type
4 boxes that they were in?

5 MR. CADIGAN: The canisters would be the canisters
6 that the lady -- Ms. Kearns -- presented and showed to the
7 Court -- about that high.

8 THE COURT: Yeah. Is this the thing that the pros
9 call them tubes? Is that it?

10 THE WITNESS: Yes.

11 MR. TAFT: Tubes.

12 THE COURT: Okay.

13 BY MR. CADIGAN:

14 Q. So the redemption coins, which we have established, the
15 FBI agent told you they were redemption coins.

16 A. Right.

17 Q. And the FBI agent told you to segregate the coins and
18 not to -- and not to disturb the coins, correct?

19 A. Right.

20 Q. But there were -- but there were canisters that these
21 redemption coins were in, correct?

22 A. Right.

23 Q. And they looked different and were different than the
24 packaging and the containers that the non-redemption coins
25 were in?

1 A. Yes.

2 MR. CADIGAN: Thank you. I have no further
3 questions.

4 THE COURT: Step down. Thank you.

5 THE COURT: Okay, I guess before we forget too many
6 loose ends, Mr. Taft want to take the witness stand and I
7 guess he can tell us what it is that he compiled and how he
8 did it and then you can examine on it, okay?

9 WARREN TAFT, COIN HOLDER, SWORN

10 CLERK: Please state your name for the record.

11 THE WITNESS: Warren Taft.

12 THE CLERK: Please spell your last name.

13 THE WITNESS: T-A-F-T.

14 THE CLERK: Please be seated.

15 DIRECT EXAMINATION

16 BY MR. MONZACK:

17 Q. Do you have, Mr. Taft, the document that you want to
18 submit to the Court as an exhibit?

19 A. Yes, I do.

20 Q. Mr. Taft, I guess -- did I previously supply you with
21 copies of the Ramapo appraisal and the Christie's Auction
22 compilation?

23 A. Yes, you did, sir.

24 Q. And why don't you describe for me what you did with
25 regard to those two reports that I furnished you.

1 A. To the best of my ability, I did a comparison of both
2 inventories and tried to compile a list by year and count of
3 the coins.

4 THE COURT: Could you say the question again to
5 that answer?

6 MR. MONZACK: What process Mr. Taft took, what he
7 performed with regard to comparing the Ramapo appraisal
8 and the Christie's compilation.

9 THE COURT: Okay, so you were comparing one
10 document with another. You weren't near any coins?

11 THE WITNESS: That is correct, Your Honor.

12 BY MR. MONZACK:

13 Q. And are you aware of the different approaches that the
14 Ramapo appraiser may have taken with regard to the -- and
15 the Christie's compilers may have taken?

16 A. I don't know what procedure they used, no.

17 Q. And so you're not aware of the fact of whether or not
18 one person on behalf of one organization may have specified
19 markings when they did their compilation and the other person
20 may have compiled the coins in a different fashion?

21 A. I would not be aware of that, no, sir.

22 Q. Did you make certain assumptions when you compared the
23 two reports?

24 A. I did a direct comparison by year and any markings and
25 the count.

1 MR. MONZACK: If Your Honor please, Mr. Lamb
2 (phonetic) from Christie's should be available by telephone
3 and it may be helpful -- I don't know if we can do this -- in
4 some way to have him give an explanation as to how he
5 compiled his list. Mr. *Herman is also available from
6 Ramapo. The problem is, if I may just give by way of
7 example, on Mr. Taft's comparison. For 1900-O, Mr. Taft has
8 a comparison that shows that the Ramapo for 1900-O has a
9 hundred coins, and Christie's for 1900-O has 119 coins. But
10 for 1900-O/CC, Ramapo has twenty and Christie's has zero, so
11 Mr. Taft has a total discrepancy on those two entries of
12 thirty-nine coins, wherein I'm advised that Christie's did
13 not make that specific designation of O versus O/CC, and
14 therefore the discrepancy is really one, but there's really
15 no way of making that determination without hearing from the
16 representatives of the two appraisers.

17 I might also point out that on Mr. Taft's
18 compilation, he assigned -- the sum total of Ramapo is higher
19 and some of Christie's is higher. Mr. Taft, I believe, does
20 a compilation and comes up with 126 amount difference between
21 the Christie's and the Ramapo. Now when you come up with
22 that difference of 826, that makes no adjustment for one --
23 one listing having more coins on one instance and the next
24 instance the other listing has more coins.

25 THE WITNESS: It's showing the total difference.

1 MR. MONZACK: And in fact the total coins I believe
2 Christie's shows 14 more coins than Ramapo.

3 THE WITNESS: I believe that is correct.

4 BY MR. MONZACK:

5 Q. So Mr. Taft, you're not aware of what assumptions the
6 appraiser or compiler made for Christie's or for Ramapo
7 when they compiled their list, is that correct?

8 A. I would not be aware of their procedures.

9 Q. And what rationales they used when they grouped their
10 coins together?

11 A. No, I just did it as a layman's way of comparing two
12 lists.

13 MR. MONZACK: If Your Honor please, I would ask
14 that the document not be marked as a full exhibit in that we
15 don't really know how valid of a comparison it is because we
16 don't know what the underlying assumptions of Ramapo and
17 Christie's approaches were, but I do believe Mr. Lamb from
18 Christie's and Mr. Herman from Ramapo would be available by
19 telephone to give their explanations of the approaches they
20 used on these if the Court feels that would be helpful.

21 THE COURT: Well, neither of the two lists are in
22 evidence either, is that right?

23 MR. MONZACK: That's right.

24 THE COURT: Is there objection to introducing as
25 exhibits -- I know they're hearsay, but if the parties -- if

1 everybody would like those -- the Christie's inventory and
2 the Ramapo -- is that what -- I think it would make some
3 sense to have those as exhibits; I would, for the reasons
4 mentioned by Mr. Monzack and because there's a gap here
5 between the witness's understanding of how the two different
6 appraisals were done, I would exclude that. It may remain as
7 an exhibit for identification, but what -- I'm not leaning on
8 anybody, but we'll allow these things in if the parties want
9 them in.

10 MR. MONZACK: I feel I have a problem, if the Court
11 -- these are my only -- I think I might have an extra Ramapo
12 -- it's my only Christie's compilation. If I could indulge
13 the Court to get a copy back to me on Christie's. I guess I'm
14 also trying to figure out exactly where we're going. I think
15 the initial objection, as I understood it, is Notice of
16 Intended Sale. So I don't lose sight of what's before the
17 Court, was that the redemption coin holders sort of objecting
18 on the grounds that maybe it's their coins in New York.

19 THE COURT: Yeah.

20 MR. MONZACK: Notwithstanding the fact that this
21 issue was resolved by prior litigation.

22 THE COURT: I think you can step down.

23 MR. TAFT: Thank you, Your Honor.

24 THE COURT: Unless you were -- were you finished?

25 MR. TAFT: Yes, I am, sir.

1 MR. MONZACK: This compilation prepared by Mr. Taft
2 I don't think goes to that issue at all. I guess what Mr.
3 Taft is saying is that here we go again. We have different
4 lists for different coins, and again we don't have an
5 accurate accounting for what coins exist at what periods of
6 time. The total discrepancy from an absolute number of coins
7 is 14. In fact, Christie's has 14 more than Ramapo shows.
8 He -- I haven't done a compilation for instance to compare
9 what's on Christie's, what's on Ramapo -- these are all very
10 time-intensive tasks in a case in which administrative
11 claimants alone well exceed any funds that are ever going to
12 come in to this bankruptcy estate.

13 I know from talking to Teresa Hoskiss (phonetic)
14 who did a comparison in terms of dollar amount difference, it
15 appears to be not substantial. If we took the dollar amounts
16 on Ramapo and compared them to what was on Christie's, some
17 questions are not answerable just from the documents such as
18 what was pointed out by Mr. Taft and I referred to the Court
19 as 1900/0 versus 1900/0/CC.

20 In absolute numbers, those two categories together
21 appear to be one coin apart, though Mr. Taft, the way he's
22 calculated it, has it really being 39 apart.

23 THE COURT: Well, it's all diminishing returns now.
24 You know, we started out with forty million dollars in this
25 case, and we're down to what, ninety-thousand now maybe?

1 MR. MONZACK: Well, a hundred to a hundred and
2 fifty --

3 THE COURT: Okay. I don't -- from what I've heard
4 through -- incidentally, there was one other person in the
5 courtroom who wanted to say something maybe when the
6 examinations were through?

7 MR. HERSEY: Now or later?

8 THE COURT: What would you like to say? Are you a
9 redemption coin holder?

10 MR. HERSEY: I've got two coins that are
11 questionable, so I'll let you decide, Your Honor. If I may
12 indulge the Court, I apologize.

13 THE COURT: Have we got his name?

14 MR. HERSEY: My name -- I'll repeat it -- David C.
15 Hersey, H-E-R-S-E-Y.

16 THE COURT: Okay. That's right. I'm sorry.

17 MR. HERSEY: Do you want my address?

18 THE COURT: No, it's okay.

19 MR. HERSEY: By way of the courts, or by your way,
20 my introduction to you, you and I became familiar with this
21 case approximately July of 1990. Mr. Furness I believe was
22 the attorney or the representative for Eastland Bank. I
23 happened to stumble in here -- I was on my way from the rehab
24 lab because I had open heart surgery at that particular time.
25 As I came into the building to find my way to the Proof Claim

1 Court, they told me to come in here because it was on, and
2 everyone reached for me to be a witness. If you can remember
3 back a few years, I think you'll remember that, Your Honor.
4 It was a long day and I think a long time for you. What I'm
5 getting to is I supplied the courts with various evidences.
6 I showed my bearer numbers which I believe Hinckley & Allen
7 have a copy and he lent me a copy here, I need to be --
8 they're all documented, if they need to be reprocessed,
9 because they were introduced at that time, we can do so
10 again. The invoices and what I have taken to be my first
11 introduction to Mr. Hal Chorney, and that was in 1995 to that
12 particular time period. It was a small time period that I
13 did not know Mr. Chorney had been in bankruptcy. I had taken
14 part then in another purchase, so that was after the
15 bankruptcy --

16 THE COURT: Right.

17 MR. HERSEY: If you follow the situation, okay.
18 Two -- two documents -- one document was for a -- and I
19 allude to this because of the fact we seem to be having a
20 paper trail problem today, a trail of accountability, in a
21 way the process in the early stages of this fiasco was moved
22 along to say the least. I introduced while I was sitting at
23 the chair a document, and it's on the Court, I believe, if
24 I'm not misleading myself or the Court; if I'm not, I indulge
25 your -- years going back now -- there was a coin called a 19

1 -- an 1885 MS 67. And I'm sure you are not aware of what
2 these numbers mean. In the numismatic term, the higher the
3 number, the greater the value. This coin had a value
4 somewhere in ex -- around \$10,000.00. And I filed a Proof of
5 Claim for that particular coin. Secondly --

6 THE COURT: Is that coin in existence? Does
7 anybody have that coin? Either FDIC or --

8 MR. HERSEY: I couldn't find it in --

9 THE COURT: I'm not surprised. If it's a good
10 coin I'm not surprised that you can't find it.

11 MR. HERSEY: I can infer what you mean. Secondly,
12 to go back and forth a bit, I have -- I'm a little dry in the
13 mouth.

14 THE COURT: Okay.

15 MR. HERSEY: I spoke to Mr. Monzack about appearing
16 before you. Mr. Monzack thought it was a waste of time.

17 THE COURT: Shame on you.

18 MR. HERSEY: I didn't think it was a waste of time
19 when I came here in 1990 and what I went through.

20 THE COURT: Mr. Monzack, I hope you misunderstood
21 him. I'm sure he didn't mean any affront. He may have been
22 trying to give you some practical advice in maybe colloquial
23 terms. Don't take it to heart.

24 MR. HERSEY: I didn't. It's a closed matter. A
25 1991 double CC, Carson City. There's only two in existence.

1 MS 65. On that particular date when I testified before the
2 committee, and it was argued on the opposite side -- I guess
3 that's -- I'm not sure -- defendant -- Mr. Chorney's side, to
4 be more proper -- that the coin that I had was not the proper
5 coin, and I showed an invoice -- first I showed the picture,
6 front and back, then I showed what I called my invoice, and
7 it was Eastland Exhibit #20, made out to the bearer. It has
8 the word "invoice" but no number. It lists one -- quantity,
9 Form A one 1891 CC MS 65 description, value \$6,150.00. And
10 I'm perplexed over the fact that someone can tell me while I
11 was sitting in the back room that day and I'm in the room
12 today, because obviously either Christie's or Ramapo or
13 someone else has probably got that coin, too. Because I've
14 got this coin. It's in a sealed -- what they call -- it's an
15 INS. They have a PC, a PG, a PS CG or whatever, and NGC
16 certification division. I happened to have a case that I
17 pulled out several coins, they were sealed inside, and they
18 were what they call a certified coin acceptable. And it was
19 supposedly the only one. The argument that took place on the
20 floor that that is not the one. My question back to the
21 Court was, "What do I have?" So my question today is still
22 going to be the same thing: Does Christie's or Ramapo have
23 my coin and what coin did I get in its place.

24 THE COURT: Well, does Christie's have such a coin?

25 MR. MONZACK: We've called Mr. Lamb -- I don't have

1 this multiple page exhibit. I didn't think we had any coin
2 that were that valuable, but Mr. Lamb I think would know --
3 he's familiar with the coins -- if we had a coin such as
4 that. I'm not sure I understood Mr. Hersey. Is he -- he
5 saying he has a coin that was -- someone took a look at it
6 and said this was not the coin you thought you purchased and
7 you had possession of that coin so you're looking for the
8 coin you believe that should have been provided to you? I'm
9 not sure I understand.

10 MR. HERSEY: I'm showing a -- you can look over my
11 shoulder -- the physical well-being of this document, this
12 item as you see printed, it was presented before the courts,
13 front and back.

14 MR. MONZACK: You had those coins with you on that
15 day?

16 MR. HERSEY: Yes.

17 MR. MONZACK: In your possession?

18 MR. HERSEY: I brought all my coins.

19 MR. MONZACK: You brought your coins with you.

20 MR. HERSEY: Right.

21 MR. MONZACK: And then you turned them over to
22 someone at that day?

23 MR. HERSEY: I turned them over to the courts. And
24 I received these coins back. My question is, does Christie's
25 or does Ramapo since the argument on the floor that day,

1 which was never settled as far as I know, who had -- since
2 the defendant denied by saying that coin does not exist.

3 THE COURT: Did you get back the coins that you
4 left here?

5 MR. HERSEY: There's a question on -- I can't
6 recall -- I got this coin back that I just referred to.

7 THE COURT: Mmhhh.

8 MR. HERSEY: -- Your Honor.

9 THE COURT: But when you left these coins in court,
10 how long were they here? Who had custody of them?

11 MR. HERSEY: I let Eastland Bank and my eyesight do
12 as best as I could to watch them so they didn't wander or
13 walk away.

14 THE COURT: Mmhhh. They never left the courtroom?

15 MR. HERSEY: They did not leave the courtroom.

16 MR. MONZACK: So you walked into the courtroom with
17 these coins that you just have photostatic copies of, and you
18 walked out of the courtroom with -- with three coins -- what
19 appeared to be the same coins in the same containers? Is
20 that right? At the end of the day?

21 MR. HERSEY: I walked out with these --

22 THE COURT: Are you suggesting that somebody
23 switched coins on you while you were in court here that day?
24 And if so, why are you raising that right now at this --

25 MR. HERSEY: No, I'm not -- in the testimony that

1 was given that day, Your Honor, the question was brought up,
2 that's not the coin, the correct coin. We only have one, and
3 the document --

4 THE COURT: Well, that's what somebody said. Who
5 said that?

6 MR. HERSEY: I don't know. Now I -- let's go back
7 to the other question. The 1885 MS 67, the \$10,000.00,
8 \$15,000.00 coin or perhaps thirty thousand today, I have no
9 idea. I submitted a proof of claim for it. These coins that
10 I'm talking about at this present time was after the
11 bankruptcy and I received no -- what I thought would be a
12 person within the order of standing -- I guess when you file
13 a proof of -- I don't know if it's credit or it's a debit --
14 when you file it --

15 THE COURT: You purchased some coins from Mr.
16 Chorney after the petition?

17 MR. HERSEY: Yes. I was unaware that he was
18 bankrupt.

19 THE COURT: Yeah, all right. Do you know who
20 you're dealing with then? Mr. Chorney is the man you want to
21 talk to.

22 MR. HERSEY: That wasn't the question and that's
23 not what was said to me that particular day in July. When I
24 asked for the courts to send me and Hinckley & Allen about
25 the proof of claim on this particular coin, no one has any

1 information on it. So I can't show you the paperwork, and I
2 filed it.

3 MR. MONZACK: For what it's worth, Your Honor, the
4 compilation that we have by alphabetical listing having
5 reviewed the -- actually, the FDIC did the compilation, Mr.
6 Hersey filed a proof of claim, he listed the 1891 CC, he
7 listed 1885 coins; it actually was unclear by looking at Mr.
8 Hersey's proof of claim who had possession of the coins.
9 There's a notation here. I mean, the claim is filed -- I'm
10 not sure if Mr. Hersey is now questioning the process by
11 which a claimant might receive a dividend. The purpose of
12 this is notice of intended sale is an effort to bring some
13 money into the estate. So there are administrative claims
14 exceeding any money that's going to come into the estate, so
15 this notice also was segregating a certain amount of funds or
16 designated for unsecured creditors notwithstanding that. So
17 in that sense, Mr. Hersey's claim would ultimately be
18 processed in the normal way that claims are processed, if
19 these are funds available for unsecured creditors.

20 THE COURT: Yeah.

21 MR. MONZACK: I'm not really sure what Mr. Hersey
22 in questioning.

23 THE COURT: I'm not sure yet what you're getting
24 at, Mr. Hersey, except that you are, you know, obviously one
25 of the -- call them creditors/victims in this case. There

1 are lots of you.

2 MR. HERSEY: After the fact and before the fact.

3 THE COURT: Right. Mmmmm.

4 MR. HERSEY: My final point to you I guess then is
5 the paper trail of this -- of the document. I would like the
6 Court to at least send me a copy of the document that I -- I
7 never -- I never -- I asked and I never received -- I
8 received the other information, but I never received any
9 acknowledgment to the 1885, so I don't -- never knew that it
10 was in any way being adjudicated one way or another, and
11 that's why I was upset with Mr. Monzack when I called him,
12 because I could not get that question to him. Maybe I just
13 can't present myself properly.

14 THE COURT: Now what document is it you're looking
15 for?

16 MR. MONZACK: Some of the -- actually, a little
17 while ago -- I didn't really remember the conversation, but
18 parts of it are coming back to me now. I think in sort of
19 the same discussion we had at length on the telephone some
20 time ago, I guess Mr. Hersey is looking for some
21 acknowledgment that indeed he's filed a proof of claim and
22 it's recognized that he's filed a proof of claim for an 1885
23 and an 1891 CC. I think I tried to explain to Mr. Hersey
24 that unless you request sort of with a stamped self-addressed
25 envelope a receipted copy of your proof of claim and receipt

1 back, that's not the normal procedure, but it's clear that
2 Claim #150 is a claim filed by Mr. Hersey in which he makes
3 reference to the 1891 CC and 1885, an if, in fact, a number
4 of other coins.

5 THE COURT: Okay. Well, we're getting afield, but
6 as long as we're here, let's try and line it up. What is it
7 that you're looking for from Mr. Monzack? Maybe we can --

8 MR. HERSEY: I'm not looking for anything from Mr.
9 Monzack, I'm looking just for the courts to kind of clear up
10 the paper trail that -- because like I said, in five years or
11 six years I don't have any information. I don't know anybody
12 in the room other than you, Your Honor, and when I look to my
13 left, Mr. Chorney.

14 THE COURT: Okay, that's two of us. The paper
15 trail that you would like clarified or part of what I had
16 started to say just before you stood up, Mr. Hersey, was that
17 there are discrepancies and questions and missing items that
18 I don't think can be cleared up by this Court or by experts
19 or by court-appointed officials, examiners, trustees,
20 accountants, lawyers. This is a tangle that was a mess
21 before it ever got to this Court. It continued apparently
22 through people -- you know, unfortunately people like you who
23 are dealing with Mr. Chorney and not even knowing he, or his
24 company, was in bankruptcy or in Chapter 11 at the time, I
25 think. But there are just some things, many of the things,

1 in fact all the important things happened pre-petition,
2 cannot be undone, and no amount of legal miracle can -- there
3 is no such thing -- but if there was, it couldn't straighten
4 this out. The damage was done.

5 There were misrepresentations about the value of
6 stuff, property has been obviously disposed of but nobody
7 will ever be able to locate. It's a terrible thing, it's --
8 I think most of it is totally unrepairable. We're down to
9 numbers now that you've heard are so insignificant compared
10 to what creditors and anybody involved in the case thought
11 might be involved when the matter was early on. And I see no
12 way, at least no logical or objective way to put anybody back
13 in the position that they think they should be in. Many of
14 the experts early on when there was some asset aspect to this
15 case -- I think, well, Mr. Weingarten's firm and certain of
16 the attorneys early on in the case were paid very substantial
17 fees on the assumption that the case warranted those amounts
18 of compensation.

19 As it turned out, the more inventories and
20 appraisals we had the less everything was worth. I'm not
21 unsympathetic to you and everybody in a similar place, and
22 it's a pathetic case. People who were here earlier who came
23 all the way from New Jersey just to get more bad news, that's
24 what this kind of a case is about. My only inclination at
25 this point is to, for whatever it's worth, is to go ahead and

1 have this sale. I think that the paragraph 6 that does give
2 any alleged redemption coin holder or any other type of
3 creditor with an identifiable interest, I think a reasonable
4 time to present any proof that a given item is not property
5 of the estate and shouldn't be in the possession of the bank.

6 I don't think the bank has to come and, or can or
7 should have to prove that every coin in its possession does
8 not belong to somebody else. Maybe that's wrong, maybe it's
9 an unjust result, and in some cases if we were ever to know
10 the truth, but I don't think we're ever going to know the
11 truth in this case. It might upset you to hear a judge say
12 that and to, you know, admit it in front of other people, but
13 a case like this, the truth is very hard to come by.

14 (End of Tape #2. Tape #3 continues without interruption as
15 follows:)

16 I think the sale should go forward. I think
17 whatever redemption coins are in the possession of Mr.
18 Brodsky, maybe they should be liquidated at the same time and
19 go along in the Christie's sale, and I can't see any way
20 right now other than to just have these proceeds distributed
21 pro rata to anybody who's in the category of redemption coin
22 holder, because there's no way that from what I've heard or
23 from any promises or representations that have been made
24 about what experts might be able to do; we cannot match
25 redemption coin holders with specific coins, and unless we

1 can do that, I don't -- I'm at a loss. If somebody's got a
2 better suggestion, I'm entertaining things.

3 Obviously I'm making what I think is the best of a
4 lot of lousy choices here. Mr. Monzack, Mr. Taft, anybody,
5 if you have a better idea, you can either put it in writing
6 or say it right now and I'll think about it, but I've given
7 you what my impression is of what the only way out, or the
8 only conclusion to this is.

9 MR. D'ORIO: Your Honor, if I might just interject
10 one point -- Joseph D'Orio on behalf of Fleet Bank. We also
11 had on record an objection which has been resolved, but we've
12 had some discussions with FDIC. We've also arranged with the
13 Court to allow the sale to take place, but there is a
14 proposed distribution or a recommendation as to
15 distributions, none of which we really quarrel with except
16 that -- as follows: We have a competing claim with FDIC to
17 all the proceeds. Our claim, Fleet's claim is really
18 administrative priority, expenses that were funded by way of
19 a loan, and there's an order that gives us a first priority
20 security interest in all of that. We're trying to work that
21 out with the FDIC -- as long as those funds are held back
22 before they're distributed to the FDIC. And secondly --

23 THE COURT: Well, I think in the circumstances that
24 we agree that the sale should go -- no, we don't agree that
25 the sale, but the sale will go forward, but that the FDIC

1 won't distribute any funds until there's an order of
2 distribution.

3 MR. CADIGAN: Absolutely, Your Honor.

4 THE COURT: Okay.

5 MR. D'ORIO: Fair enough, Judge. Thank you.

6 MR. MONZACK: If I could just clarify. You were
7 talking -- when you're talking about the pro rata
8 distribution to redemption coin holders, I'm assuming you're
9 talking about that from the coins that Mr. Brodsky has?

10 THE COURT: Mr. Brodsky's -- yeah.

11 MR. MONZACK: And the other proposed distributions
12 contained in the Notice of Intended Sale? Those funds.

13 THE COURT: Yeah. Now, this Notice of Intended
14 Sale doesn't touch on selling the coins Mr. Brodsky has, is
15 that right?

16 MR. MONZACK: No. In fact, it -- the Trustee would
17 have no power to well those coins. The order that resolved
18 that action --

19 THE COURT: Well, the question is could it and
20 should it be done all at one time?

21 MR. MONZACK: I was going to say that. The court
22 order that resolved the adversary proceeding said that the
23 redemption counsel would come before the court with a
24 proposed manner of liquidation of those coins.

25 THE COURT: Mmmmm. Yeah.

1 MR. MONZACK: I guess that could be the proposed
2 manner would be to liquidate these coins at the same time as
3 the other ones to segregate them out and to segregate these
4 proceeds, and then have them laid out in accordance with the
5 terms of that letter. The curious thing is that Mr.
6 Campbell, who is the co-counsel of the redemption coin
7 holders, and Mr. Brodsky really has been sort of speaking on
8 behalf, so to speak.

9 THE COURT: Right.

10 MR. MONZACK: Maybe not officially, but practically
11 on behalf of the redemption coin holders.

12 MR. CADIGAN: Your Honor, I've been in
13 communication with Mr. Lamb of Christie's and they're going to
14 have a sale this June, and they need to get their lots
15 photographed for the investor -- I mean for the purchasers,
16 the auctioneers, and I understand that there was like a March
17 1st deadline to get this to the printer. Our coins are
18 already there, or the estate's coins are already there, so if
19 there's going to be some attempt to sell the redemption coins
20 held by Mr. Brodsky in the upcoming sale, this would have to
21 be done very fast.

22 THE COURT: Yeah. That was strictly gratuitous
23 comments by the Court. Mr. Brodsky, if you want to get
24 together with Mr. Campbell to decide --

25 MR. BRODSKY: I'd like to make a statement to the

1 Court, Your Honor, please. Only after I was furnished the
2 past few days with names of coin holders has there been a
3 flurry of response on my behalf to those coin holders. I
4 think it would be an injustice to them if those coins in my
5 possession were turned over to FDIC for liquidation.

6 THE COURT: I'm not --

7 MR. BRODSKY: And because it was going to be my
8 intention, now that Your Honor has mentioned it, to come
9 before this Court with instructions after I can forward to
10 the Court some guidance if, for example, the responses by
11 potential coin holders is not forthcoming to me, I don't want
12 the burden and the responsibility of maintaining possession
13 of those coins, and I'm not even going to tell them in public
14 where they are for fear that there might be some happening,
15 so that if I may at some reasonable time from now come before
16 the Court on an appropriate petition for the Court's
17 guidance.

18 THE COURT: Okay.

19 MR. BRODSKY: But certainly not before March 1st,
20 and certainly not before June, because in writing to these
21 people and waiting for their responses we have to give them
22 not only a reasonable opportunity of responding, but these
23 lists that have been forwarded to me contain addresses of ten
24 or more years ago, and many of those envelopes have come back
25 to my office "Date for forwarding has expired."

1 THE COURT: Yeah, but this is a 1989 case. The
2 problem as I see it, and I'm talking practicalities now,
3 suppose we had until June three years from now with the
4 numbers and the dates of these coins and the number of coins
5 that were minted in each year, do you foresee anybody being
6 able to establish title or ownership in any given coin no
7 matter how long we try?

8 MR. BRODSKY: Other than the bearer number, Your
9 Honor, it would be difficult for me to honor the request. In
10 other words, in the -- I have received invoices without any
11 number at all, and I've received invoices with an
12 identification that don't match exactly what I have, so that
13 if they don't match exactly what I have, I can't honor them,
14 and for someone to come back and say the 1880 coins are
15 mine --

16 THE COURT: Yeah.

17 MR. BRODSKY: -- we'd need something more than
18 Solomon.

19 THE COURT: Right. Yeah. So you and maybe any of
20 these active redemption -- I keep calling you redemption coin
21 holders -- that's becoming quite a misnomer these days, but
22 you may want to decide among yourselves if you want to try to
23 tag along on this June sale, but as I say, I'm certainly not
24 ordering that, I'm not putting any heat on anybody to do
25 that, but if it were my money I might possibly be interested

1 in that alternative, but the Notice of Sale as -- Intended
2 Sale as filed is approved. If it needs to be amended in that
3 way, I guess you'll have to let me know fairly shortly.

4 MR. D'ORIO: Excuse me, Your Honor, if I may, I
5 just -- turning to Mr. Brodsky, showed him today that bearer
6 number 4439 he does have in possession, and I'll be getting
7 together with him on that. He does have my coins.

8 THE COURT: Okay. And you're all set on that?

9 MR. D'ORIO: I just want to make mention here. And
10 again, as far as the other people, the victims, like you said
11 you know, limited justice in this particular case a lot of
12 people have been taken and they're very despondent and they
13 wish a different outcome, but unfortunately it doesn't seem
14 to be that way. Thank you.

15 THE COURT: I agree with you.

16 MR. MONZACK: If I can just clarify one thing, Your
17 Honor. So the Notice of Intended Sale will be granted and
18 the subject at paragraph 6 we will not go forward with that.
19 The coins that are in Christie's possession will be sold.

20 THE COURT: Right.

21 MR. MONZACK: Paragraph 6 was the opener to have if
22 someone could identify their coins, have them pulled from the
23 sale.

24 THE COURT: Yeah.

25 MR. MONZACK: But the order and finding of the

1 Court is that those coins in the possession of Christie's will
2 all be sold.

3 THE COURT: Yeah. I think we ought to sell the
4 coins, but there's going to be some kind of an additional
5 open door after the sale to -- if anybody has -- and I don't
6 see -- I think their chances diminish after the coins are
7 gone, but there won't be a distribution until an Order of
8 Distribution.

9 MR. MONZACK: Yes.

10 THE COURT: And I assume that that is to -- as I
11 say, I don't see any present ability of any redemption coin
12 holders or alleged holders to establish ownership; that's why
13 I'm approving the sale in the first place. If I thought
14 there was still a problem, I wouldn't be doing it.

15 MR. MONZACK: Thank you.

16 THE COURT: Thank you.

17 * * * * *

18 I certify that the foregoing is a true and accurate tran-
19 script from the electronic sound recorded record of the
20 above proceedings.

21 *B. J. Williams*
22 B. J. WILLIAMS for gcl
23 GCI TRANSCRIPTION & RECORDING SERVICES
24 505 Hamilton Avenue Suite 107
25 Linwood, NJ 08221
(609) 927-0299 FAX (609) 927-6420
1-800-471-0299

3-22-96
March 22, 1996

COMPARISON OF RAMAPO & CHRISTIES TOTALS

ONLY 5 OF THE 38 TOTALS FOR THE SAME YEAR MATCH
USING YEAR TOTALS, THERE ARE 382 COINS THAT ARE DIFFERENT

YEAR	RAMAPO TOTALS	CHRISTIES TOTALS	DIFFERENCES
1878	588	589	1
1879	85	83	2
1880	490	460	30
1881	567	529	38
1882	518	518	0
1883	104	101	3
1884	176	182	6
1885	826	833	7
1886	177	179	2
1887	135	179	44
1888	210	217	7
1889	164	177	13
1890	474	430	44
1891	149	166	17
1892	75	72	3
1893	22	23	1
1894	26	22	4
1895	10	10	0
1896	60	54	6
1897	74	71	3
1898	80	81	1
1899	116	117	1
1900	181	184	3
1901	136	133	3
1902	96	94	2
1903	86	77	9
1904	60	69	9
1921	826	846	20

PEACE DOLLARS

1921	92	88	4
1922	688	810* (689)	1
1923	555	584	29
1924	229	220	9
1925	70	59	11
1926	170	170	0

1927	48	48	0
1928	95	56	39
1934	86	96	10
1935	83	83	0
			382 TOTAL
			DIFFERENCE
COUNTERFEITS	11	8	
SET OF 50	0	50	
HOLED COINS	5	0	
TOTALS	8643	8768 (8647 USING ONLY 1 LOT #131)	

COUNTERFEITS

ONLY 6 OF THE 11 COINS MATCH

YEAR	RAMAPO BOX 119-6	CHRISTIES LOT #123
1902-S	1	0
1879-CC	1	0
1889-CC	1	1
1883-S	2	2
1884-S	4	3
1893-S	1	0
1934-S	1	0
1888-S	0	1
1897-0	0	1

ONLY 35 OF 124 DIFFERENT YEARS AND MINT MARKS MATCH
USING YEAR AND MINT MARK THERE ARE 826 DIFFERENT COINS

1878 7TF	96	77	18
1878 8TF	39	57	18
1878 7/8TF	14	0	14
1878-S	325	325	0
1878-CC	82	82	0
1878 REV 79 18	18	0	18
1878	14	48	34
1879	29	29	0
1879-0	29	28	1

1879-S	17	16	1
1879-CC	10	10	0
1880	224	199	25
1880-0	228	225	3
1880-S	36	35	1
1880-CC	2	1	1
1881	96	79	18
1881-0	446	425	21
1881-S	23	23	0
1881-CC	2	2	0
1882	25	26	1
1882-0	325	325	0
1882-S	134	133	1
1882-CC	34	34	0
1883	12	10	2
1883-0	45	44	1
1883-S	26	26	0
1883-CC	21	21	0
1884	9	10	1
1884-0	134	134	0
1884-S	27	32	5
1884-CC	6	6	0
1885	222	242	20
1885-0	574	547	27
1885-S	10	24	14
1885-CC	20	20	0
1886	116	118	2
1886-0	43	43	0
1886-S	18	18	0
1887	47	41	6
1887-0	45	103	58
1887-S	43	35	8
1888	130	146	16
1888-0	64	70	6
1888-S	16	1	15
1889	94	107	13

1889-0	64	68	4
1889-S	5	1	4
1889-CC	1	1	0
1890	91	54	37
1890-0	200	216	16
1890-S	162	141	21
1890-CC	21	19	2
1891	49	68	19
1891-0	63	62	1
1891-S	24	24	0
1891-CC	13	12	1
1892	29	28	1
1892-0	33	32	1
1892-S	8	7	1
1892-CC	5	5	0
1893	6	6	0
1893-0	8	8	0
1893-S	1	1	0
1893-CC	7	8	1
1894	1	1	0
1894-0	17	17	0
1894-S	8	4	4
1895	0	0	0
1895-0	6	7	1
1895-S	4	3	1
1896	27	20	7
1896-0	25	26	1
1896-S	8	8	0
1897	28	26	2
1897-0	28	27	1
1897-S	18	18	0
1898	46	47	1
1898-0	7	7	0
1898-S	27	27	0
1899	47	47	0
1899-0	53	52	1

1899-S	16	18	2
1900	48	50	2
1900-0	100	119	19
1900-0/CC	20	0	20
1900-S	13	15	2
1901	20	18	2
1901-0	97	96	1
1901-S	19	19	0
1902	37	38	1
1902-0	43	39	4
1902-S	16	17	1
1903	53	41	12
1903-0	12	13	1
1903-S	21	23	2
1904	37	46	9
1904-0	12	12	0
1904-S	11	11	0
1921	529	502	27
1921-D	261	316	55
1921-S	36	28	8

PEACE DOLLARS

1921	92	88	4
1922	593	708 (587)	6
1922-D	65	72	7
1922-S	30	30	0
1923	474	495	21
1923-D	28	33	5
1923-S	53	56	3
1924	214	211	3
1924-S	15	9	6
1925	52	40	12
1925-S	18	19	1
1926	34	46	12

1926-D	23	11	12
1926-S	113	113	0
1927	13	13	0
1927-D	16	16	0
1927-S	19	19	0
1928	21	20	1
1928-S	74	36	38
1934	40	44	4
1934-D	20	25	5
1934-S	26	27	1
1935	63	73	10
1935-S	20	10	10
			826 DIFFERENCE

AFFIDAVIT OF THERESA RYAN TOSCHES

NOW COMES THERESA RYAN TOSCHES and declares as follows:

1. I am employed as a Legal Technician with the Federal Deposit Insurance Corporation and my business address is 124 Grove Street, Franklin, Massachusetts, 02038.

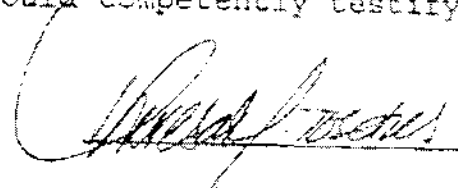
2. I have reviewed the Motion and Memorandum filed by Warren Taft on October 6, 1995, and the Motion and Memorandum To Continue Hearing, filed by Mr. Taft on February 5, 1996. I have compared the appraisal and inventory of the coins prepared by RAMAPO COIN EXCHANGE, on February 10, 1994 and the inventory listing and pre-auction estimates prepared by Spink America in June of 1995. I have also consulted with representatives of Spink America on February 13, 1996, to discuss my findings and observations in connection with the two inventory listings.

3. In comparing the RAMAPO COIN EXCHANGE appraisal against the manuscripts of Spink America, the RAMAPO appraisal listed each coin by value and condition. Spink America's manuscripts grouped coins of the same date together, but not necessarily of the same condition, in order to come up with the best coins to comprise a lot for auction. In other words the coins were mixed up, in order to be more attractive for sale.

4. In totaling up the number of silver dollars listed in the RAMAPO appraisal against the total number of silver dollars listed in the Spink America manuscripts, there is a 14 coin discrepancy. It appears at this time that Spink America is showing 14 additional coins in its inventory.

I declare under penalty of perjury that the forgoing is true and correct and if called as a witness could competently testify thereto.

Dated: February 13, 1996

A handwritten signature in cursive script, appearing to read "David J. Foster", is written over a horizontal line.