

**SEALED**

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**CONFIDENTIAL**

TO THE

HONORABLE ROGER L. HUNT  
UNITED STATES DISTRICT JUDGE

**GOVERNMENT'S TRIAL MEMORANDUM**

1 GREGORY A. BROWER  
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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 **-oOo-**

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 vs.  
13 JEFFREY GREER,  
14 Defendant.  
15 \_\_\_\_\_ )

) 2:07-CR-00120-RLH  
) **GOVERNMENT'S TRIAL**  
) **MEMORANDUM**

16  
17 COMES NOW the United States of America, by and through GREGORY A.  
18 BROWER, United States Attorney, ERIC JOHNSON, Chief, Organized Crime Strike Force, District  
19 of Nevada, and submits the following trial memorandum pursuant to the Court's order regarding  
20 pretrial procedure:

21 **I**

22 **STATEMENT OF THE CASE**

23 Agents of the Federal Bureau of Investigation (FBI) arrested defendant Greer in the Western  
24 District of Tennessee on May 9, 2007, for Extortion Affecting Interstate Commerce (Hobbs Act) in  
25 violation of Title 18, United States Code, Section 1951. On the same date, the Government filed a  
26 complaint in the District of Nevada charging defendant with a Hobbs Act violation alleging defendant  
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1 sought to extort MGM Grand/Mirage and Harrah's Entertainment of money by threatening to  
2 economically harm the companies through the sale or distribution of confidential information.  
3 Magistrate Judge Rodger Foley signed the complaint. On June 12, 2007, the Grand Jury returned an  
4 Indictment against Defendant JEFFREY GREER, charging the defendant with two counts of violating  
5 the Hobbs Act, Extortion Affecting Interstate Commerce, in violation of Title 18, United States Code,  
6 Section 1951. On August 3, 2007, Defendant pleaded not guilty at his arraignment. Subsequently, on  
7 May 6, 2008, the Grand Jury returned a Superseding Indictment against Defendant, charging defendant  
8 with two counts of violating the Hobbs Act, two counts of Wire Fraud in violation of Title 18, United  
9 States Code, Section 1343, and two counts of Use of Interstate Facilities in Aid of Racketeering, in  
10 violation of Title 18, United States Code, Section 1952.

11 Calendar call is to be held on October 15, 2008, and trial is set for October 20, 2008.

12 The case stands ready for trial as currently scheduled. The Government's case-in-chief should  
13 take no more than two days to present. Defendant Greer is not in custody and is released on a personal  
14 recognizance bond.

15 **II**

16 **STATEMENT OF SUBSTANTIVE FACTS**

17 **HARRAH'S ENTERTAINMENT EXTORTION**

18 On April 26, 2007, Ray Chitwood with Harrah's Executive Security received a call from someone  
19 indicating that he had information that Harrah's would find interesting and requesting to make a deal  
20 with Harrah's for the information. Chitwood told the caller that he would have to speak to someone else  
21 at Harrah's and requested the caller to call back. Chitwood spoke to Skip Wilks, Corporate Director of  
22 Security, who told Chitwood to refer the caller to him. On April 27, 2007, Wilks received a call from  
23 a person who identified himself only as "Jeff." "Jeff" was subsequently determined to be defendant Jeff  
24 Greer. Greer advised that Harrah's had an information leak in its organization that allowed Greer to  
25 acquire information that would be of interest to Harrah's. Greer stated that he did not receive the  
26 information from anyone at Harrah's. Greer said he wanted to be placed on Harrah's payroll and he

1 would fix the leak. Wilks suggested meeting in Memphis, Tennessee, and Greer said that would be okay  
2 as it was close to where he lived. Greer said he would talk to his attorney about what he was doing and  
3 get back to Wilks.

4 On May 2, 2007, Greer called Wilks. Wilks requested some information so he could verify the  
5 nature of what Greer had and whether it was legitimate. Greer gave Wilks some information that Wilks  
6 said he would check. Greer said that he could get information whenever he wanted and that it takes him  
7 only two minutes to do so. He advised that anybody could get the information. Wilks said that it would  
8 have to come from the computer system and Greer said it was a safe assumption. Greer said he spoke  
9 to his attorney and gave him a hypothetical and the attorney told him that he should not do anything with  
10 the information. Greer said if they did not come to a deal, that he would trash the information; but if he  
11 got more information, he would have to decide again what to do with it. Wilks asked Greer to call him  
12 back.

13 Greer in his May 2, 2007, conversation with Wilks provided Wilks with a sampling of the data,  
14 including a "high-roller's name," Social Security account numbers, credit card numbers and limits, and  
15 the amount customers owed in markers. Greer also provided slot machine records, voucher number  
16 records, and personal information regarding a customer who lost a wedding ring at one of Harrah's  
17 properties. Harrah's check of the information at this time determined that Greer did have access to  
18 confidential information of Harrah's.

19 Greer called on May 3, 2007, from telephone 731-847-8233, but Wilks was out and missed the  
20 call. A little later on May 3, 2007, Greer called again. Wilks said he was interested in the information  
21 but that Greer would need to speak to someone in the Corporate Security Department. Wilks then  
22 transferred Greer to Randy Riley, a Harrah's Corporate Investigator. Greer identified himself to Riley  
23 as "Jeff." Greer said he was getting frustrated talking to so many people; and if Harrah's wasn't  
24 interested, he would go another route. When asked what he wanted, Greer said he wanted Harrah's best  
25 offer. Specifically, he wanted a 30-day consulting contract and would provide Harrah's with all his  
26 information and explain how to fix the leak. Greer said he had information on patrons from Las Vegas  
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1 and New Orleans. Greer claimed to have all of the employees' employment application information.  
2 Riley commented that Greer must be getting the information over the internet. Greer commented that  
3 he didn't say the internet. Riley asked if someone was feeding him the information and Jeff said he was  
4 not getting information from anybody within Harrah's or outside Harrah's. Riley asked Jeff to disclose  
5 the information he had and Greer refused. Greer said he had consulted an attorney and the attorney had  
6 advised him to destroy the information. Greer said that if he didn't work out a deal, he possibly would  
7 destroy the information but he could get more information later. Greer said he would call back on  
8 Monday, May 7, 2007, to see if there was a deal. If not, he would explore other avenues and suggesting  
9 he might provide the information to the National Enquirer. Greer said not to try to trace his call as he  
10 was using calling cards. Greer wanted the money paid to him through Lone Elm Research, a company  
11 he owned. Riley gave Greer his and Paul Urban's telephone numbers and Greer said he would call him  
12 back (510-511).

13 On May 7, 2007, Greer again called Harrah's and left a voicemail suggesting they do a title search  
14 on eBay for "gaming family jewels" (recorded). Greer said he was running out of patience. A search  
15 of eBay determined that Greer had placed a bid advertisement on the Internet auction website titled "A  
16 Large Gaming Company's Family Jewels." Next to the title was a picture of what appears to be the  
17 testicles of a steer. The auction listed a starting bid at \$100,000.00. The auction offered for sale to the  
18 highest bidder "inside business information" including credit card numbers, hotel guest information,  
19 players' Social Security numbers and players' markers and credits. The site advised in large print that  
20 the winner could get "virtually unlimited amounts more" of information." The advertisement stated that  
21 competitors could use the information to persuade high-rollers from other casinos to come to their  
22 casinos. The advertisement noted the devastating financial impact the release of this information would  
23 have on the victim casinos: "if the mere fact that this information was easily available from one  
24 Company became widely known their properties would quickly become ghost towns. . . ." In addition,  
25 the auction indicated the winner would get information from at least four casinos. The auction  
26 advertisement identified as possible buyers publishing companies, stock traders, and companies in the  
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1 business of protecting the public image of celebrities. Greer, in the listing, stated in large print that  
2 "identity thieves need not bid." Greer stated he was "offering for sale my personal property, legally  
3 obtained, containing the information described above (and more) and a detailed provenance of how I  
4 obtained it and how anyone who knows how can legally obtain virtually unlimited amounts of the same  
5 information from inside on of the largest gaming companies in the world. The exact nature of the  
6 personal property is secret and may be a laptop computer, a briefcase, a paper bag, a hard drive or one  
7 or more computer disks. If printed out the information would amount to well over 100 pages."

8 Later that same day, May 7, 2007 (recorded), Greer called Harrah's and told Randy Riley, that  
9 he was going to take down the eBay auction because it was getting too much attention and he did not  
10 want it to interfere with his negotiations with Harrah's. Greer told Riley that he would not explain how  
11 to fix the leak regarding Harrah's information without getting paid for it. Riley commented that Greer  
12 had said that he wanted to do the right thing and he was wondering if Greer would do the right thing  
13 without getting paid for it. Greer said he was going to get paid. Greer said that he wanted to come out  
14 with a clear conscience and felt he attempted to do the upright thing but he also intended to get money.  
15 Greer threatened that if he and Harrah's could not come to an agreement, Greer would re-post his auction  
16 and would spend "12 hours" publicizing the auction to ensure that "100,000 people will see it." Greer  
17 stated he would sell the information to the highest bidder on eBay. Greer said what he was expecting was  
18 less than what Harrah's would lose with one high roller going to another hotel and Harrah's was risking  
19 losing hundreds. When Riley offered to pay Greer \$5,000.00 to obtain the information, disclose the  
20 nature of the leak and refrain from selling the information on eBay, Greer refused the \$5,000 offer and  
21 claimed to be "insulted" by the offer. Greer said Riley should consider what it would be worth to  
22 Harrah's to get this information, commenting that an auction winner would legally acquire "virtually  
23 unlimited quantities." Greer said he had only in the neighborhood of a hundred printed pages. Greer  
24 said that he could "acquire, I can't even quantify how much more. It is vastly, vastly more." Greer said  
25 he has tried hard to do the right and honorable thing and make a profit out of it but he would have a clear  
26 conscience if he sold the information to somebody else. Riley said that for Harrah's to pay Greer

1 \$250,000, Greer needed to look up a name to prove he had access to current data. Greer said he had  
2 made no such claim. Riley said Jeff told him that in their last conversation. Greer denied making such  
3 a statement, explaining that to have made such a claim "would be to be proven a liar. At the instant that  
4 I'd, I'd gave ya all the, the, the key to your leak." Riley asked if the information Greer had in his  
5 possession was all the information he would have without going back to his source for information.  
6 Greer said that was accurate. Greer said he would not go back to his source for more information. Greer  
7 said whoever bought "the information, my property, my legally obtained property, will also get a  
8 complete provenance of that property. That would give them the ability to legally acquire vastly more  
9 of the same thing." Greer said he didn't know if he had the capability to research an employee's data and  
10 he had not claimed the ability to do so.

11 Riley and Greer ultimately agreed that Harrah's would contract him as a security consultant for  
12 30 days and pay him \$250,000.00 in exchange for his turning over all of Harrah's information and  
13 advising Harrah's on how to "fix" its information leak. They agreed to meet at 2:00 P.M. CDT on May  
14 9, 2007, at the Harrah's Information Technology Data Center in Cordova, Tennessee, to conduct the  
15 transaction.

16 Later on May 7, 2007, Greer attempted to call Riley about a bonus round. Riley called Greer  
17 back and asked what the bonus round entailed (recorded). Greer laughed and commented that it kept  
18 getting more bizarre. Greer proposed that Harrah's put an additional \$100,000 on deposit for him at the  
19 Rio to allow him to play in the World Series of Poker and this would give Harrah's a chance to recover  
20 the \$250,000 from him. Riley said they could talk about it on Wednesday.

21 On May 8, 2007, Paul Urban, with Harrah's Security, called Greer at 731-847-8233 and told  
22 Greer that it was a go for May 9 and explained how Greer should go to Harrah's Memphis facility and  
23 tell the guard at the gate that he was Jeff with Lone Tree Research. Urban said that Riley would have  
24 the check and contract. Greer asked if Riley had told Urban about the \$100,000 bonus round. Urban  
25 said he was out of the office the previous day. Urban mentioned he had been in the military and Greer  
26 discussed his military background. Greer mentioned the bonus round again but would not tell Urban  
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1 what the bonus was about other than to say that they would have to put up \$100,000 on deposit at the  
2 Rio for him to play in the World Series of Poker. Greer said that Harrah's would win the \$100,000 back  
3 from him because he is not a great poker player.

4 On May 9, 2007, Greer called Urban and said he could not find directions to Harrah's Memphis  
5 facility. Urban gave him directions. Greer started talking generally about the military and hobbies and  
6 jobs he had done. Greer commented that he had looked at some of the Security Incident Reports and  
7 knew the crazy things that Urban had to deal with. Greer said he knew the data he had was giving  
8 people, including Urban, headaches. Greer said that "IT" was not needed and that it will be so obvious  
9 how he got the information. Greer said he was using a prepaid cell phone because he knew Harrah's was  
10 trying to track him. Greer mentioned several times that they were getting what he had really cheap as  
11 it would cost Harrah's reputation if the information got out. A little later, Jeff called again and said that  
12 if Urban promised not to tell anyone, he would tell him how he got the customer information. Greer  
13 commented that he had talked to another casino that didn't move fast on his offer until he put it on eBay.  
14 Urban said he would not tell Riley so Greer could have a Kodak moment when he told Riley how he got  
15 the information. Greer said he was a trucker and he couldn't tell Harrah's what he did because they  
16 would have figured it out and he wouldn't have gotten anything. Greer said he hauled paper from  
17 Nevada to Alabama. Greer said that after he unloaded, he found paper on the floor and realized it was  
18 confidential information from Harrah's and another casino. He said he knew Harrah's would not want  
19 the information exposed. Greer said that he tried to get the casinos to move on what he had but no one  
20 did until he did the eBay posting. He said he never bluffed a big company before. He asked if Riley  
21 was going to pay the bonus round and Urban said it was okay from their end. Greer remarked several  
22 times that they got off cheap. He said this was okay as he had another deal. Greer said he was about  
23 to the Memphis facility and he couldn't wait to see Riley's face when he told him about the leak (538-  
24 542)

25 On May 9, 2007, Greer arrived at the corporate offices of Harrah's Operating Company in  
26 Memphis, Tennessee. Greer was driving a Dodge Intrepid sedan, bearing Tennessee license plate, 545-

1 JJV. FBI Special Agent Stephen Lies, posing as a Harrah's employee, met Greer and escorted Greer into  
2 the building. Once inside, Agent Lies introduced Greer to Agent Ronald Godfrey posing as a Harrah's  
3 representative. They then went to a conference room and met with Harrah's employees Brandon Foley  
4 and Randy Riley. This meeting was videotaped and recorded. Greer recognized Riley as an individual  
5 he had previously spoken to over the telephone. Greer was given a Harrah's corporate check for  
6 \$250,000. Greer provided a stack of Harrah's internal documents from his briefcase along with a signed  
7 statement indicating how he received the materials. Greer then signed two service contracts, keeping  
8 one copy and giving a copy to Riley. Greer was arrested as he left the conference room.

9 Greer was immediately advised of his rights by Agent Joseph Rinehart and indicated that he  
10 understood his rights. Greer was taken to the Memphis FBI offices. Greer said he wished to cooperate  
11 and agreed to sign a form FD-395, waiving his rights. Greer said he was a truck driver living in  
12 Tennessee. Greer said on March 19, 2007, he picked up a load of scrap paper from 4751 Vandenberg  
13 Drive in Las Vegas, Nevada, to transport to Boise Cascade in Jackson, Alabama. He dropped off the  
14 paper on March 22, 2007. Later, while cleaning out his truck, he found some paper in the "scuff band"  
15 of the trailer. Greer found that the papers were from several casinos and contained sensitive information.  
16 Greer said he recognized immediately that the documents were sensitive and should be secured. Greer  
17 said he initially locked the documents in his truck compartment to determine how to alert the owners  
18 of the documents and return them. However, under what Greer claimed was company policy, he decided  
19 to keep the documents. According to Greer under company policy once the customer has unloaded the  
20 truck, signed the bill of lading and released the driver, the driver can deal with any remaining "crumbs"  
21 in the truck bed as he sees fit.

22 Greer, in his interview, said he set up the eBay auction for the papers under the name Sam  
23 Elmore, a friend who had passed away several years ago. Greer claimed he did not intend to really sell  
24 the papers at auction but only wanted to show the casinos the possible alternative if the casinos did not  
25 pay him in accord with his terms.

1 Greer, in his interview, said that he called the MGM MIRAGE and Harrah's offices. He  
2 explained that he demanded that each casino pay him a check for \$250,000 and provide a 30-day  
3 consulting contract in exchange for him to not distribute the information. Greer said he wanted a  
4 contract so he could explain to the IRS how he got the money.

5 Greer claimed that he did not believe his dealings with Harrah's were illegal but rather were just  
6 hard-nosed business tactics. He said he believed the papers found in his trailer were his personal  
7 property and that he was only guilty of capitalizing on someone else's mistake.

8 Greer said that he borrowed the Dodge Intrepid from Jeff and Sandy Lindsey. Greer indicated  
9 that he had some documents in the trunk of the car and in his briefcase. Greer signed consents to search  
10 his briefcase and car.

11 Besides having papers from Harrah's and MGM MIRAGE, Greer informed agents that he had  
12 some papers from the Tropicana. Greer provided consent and directions to allow the agents to seize all  
13 the casino documents in his possession.

14 **MGM MIRAGE**

15 On April 26, 2007, Bruce Gebhardt, Senior Vice-President, Global Security for MGM MIRAGE  
16 received a telephone call from a man identifying himself only as "Jeff." Greer stated that the MGM had  
17 a large information leak and Greer was in possession of, and had access to, credit card bills, receipts, and  
18 information on patrons at MGM MIRAGE properties. Greer said it was a major security breach and  
19 wanted money from the company in exchange for telling MGM MIRAGE how it could fix the  
20 information leak. Gebhardt questioned the truthfulness of Jeff's claims and Greer started rambling off  
21 names and information. Gebhardt asked Greer to fax him the information.

22 On April 27, 2007, Gebhardt received a fax with information written by hand, this fax contained  
23 information on patrons, slots, daily receipts totals from the Mandalay Bay buffet, and players'  
24 information. Greer subsequently called Gebhardt on April 27 and asked if Gebhardt got the information.  
25 Greer said he "stumbled" on to the information in the fax a couple months ago and didn't get it from  
26 anyone else. Greer said the information wasn't from a particular property, so it had to be coming from  
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1 corporate. Greer said it was like a river and he could dip his hand into it and come up with information.  
2 Gebhardt told Greer that what he was doing was extortion and possibly illegal. Greer got angry and  
3 asked threateningly how would the customers like it if they knew their information was available. Greer  
4 commented that they would go elsewhere. He then hung up.

5 A few days later on May 2, 2007, Greer called Gebhardt again. Greer said he had talked with  
6 an attorney about his plan and his attorney thought he was stupid. Greer said that if he didn't reach a  
7 deal with MGM/Mirage he would destroy his information but Greer told Gebhardt that he could get  
8 more information and wanted to be paid to close the leak. Greer said that he wanted a short-term  
9 consulting contract with MGM/Mirage to tell the Mirage where its leak was and how it could fix its leak.  
10 Greer said he was looking for a payment in the mid-six figures. Greer commented that he had worked  
11 all his life and was not a good Samaritan. Subsequently, on May 2, 2007, Greer sent another fax of  
12 information on individual gamblers and slot play.

13 On May 3, 2007, Gebhardt received a call from 731-847-8233. No message was left. On May  
14 4, Gebhardt received another call from 563-388-8908 and Greer left a message that he would call back  
15 (516-518). On May 7, 2007, Greer called and spoke to Gebhardt's assistant, Helena Garcia. Greer  
16 identified himself as "Jeff" and asked for Gebhardt, who was unavailable. Greer said he was getting  
17 impatient and asked Garcia if she was familiar with eBay. Greer told her to check out "company family  
18 jewels" and be sure that Gebhardt saw it (519). Garcia subsequently pulled up and copied the auction  
19 site auctioning gaming family jewels.

20 On May 7, 2007 (recorded), Greer spoke by telephone with Kyle Edwards of the MGM MIRAGE  
21 and advised him that he had posted an eBay auction of the MGM MIRAGE papers. Edwards is a Vice  
22 President for Corporate Security and Gaming Surveillance. Greer told Edwards that he would take  
23 \$250,000.00 in exchange for releasing the information to MGM MIRAGE and explaining how to fix the  
24 information leak. Greer said he would provide the information and its source the second he was paid.  
25 Greer said they would not need IT specialists or anything of the sort to fix the leak as it was so simple.  
26 Greer commented that he didn't get the information on MGM Mirage properties. Greer wanted Edwards  
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1 to meet him near Memphis, Tennessee, to conduct the transaction. When Edwards asked Greer what  
2 would happen if they could not come to an agreement, Greer said that he would re-list the auction and  
3 sell the information to the highest bidder. Greer said, "I will spend 12 hours running around the Internet,  
4 bringing people's attention to it. I figure I could get 50,000 eyeballs on it over the next seven days."  
5 Additionally, he stated, "You have the option to bid on it just like your competitors would, and the  
6 National Enquirer, and Star, and everybody . . ." When Edwards asked Greer if he understood that he  
7 would hurt the company by doing this, Greer said, "It won't be good for ya'll . . . no. I'm more concerned  
8 with hurting individuals as an identity theft" Greer continued, "That's such a minor amount of money  
9 to that corporation compared to what their reputation is worth." Greer reminded Edwards of the value  
10 of this information to MGM MIRAGE's competitors stating, "I'd rather have your 250 and let you fix  
11 your problem quietly than a half a million from Harrah's and they're going to leak it gradually all over  
12 the entire world that ya'll can't be trusted with people's information. And you're going to lose some of  
13 your high-rollers going over to them, and they're going to make a huge profit if they got it for  
14 \$500,000.00. They'd make that off their first high-roller who showed up at their property who would  
15 prefer to play at yours." Edwards commented that if Greer was offering MGM Mirage that kind of  
16 information about Harrah's that MGM Mirage wouldn't buy it from Greer because they wouldn't play  
17 that way. Greer responded that the National Enquirer would then buy it. He said the "National Enquirer  
18 would love to have it for the celebrity side. They'd throw away the 100,000 of your customers who aren't  
19 known to the public to get the one who is and they find out that they drew a marker for X amount on this  
20 day and they stayed in this hotel for this many days and had these special requests. They just love that  
21 kind of stuff. They can dine out on it for years." Greer and Edwards did not reach an agreement for hiring  
22 Greer as a security consultant as Edwards explained he had to work with the corporation's attorneys.

23 On May 8, 2007, Greer called Edwards (recorded). Edwards said he was having problems with  
24 the lawyers coming up with an agreement including confidentiality. Edwards said that they weren't  
25 happy paying the amount of money. Greer said it was a bargain. Edwards said that they didn't consider  
26 it a bargain and they thought he was going to run off and sell it anyway. Greer said that would be

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1 dishonorable and the only thing left he had was his honor. Greer said he would tell Edwards the problem  
2 if he could get a signed contract and the MGM Mirage could pay him later as he trusts the company.  
3 Greer said it would be best for the company if he got a written agreement the next day. Greer said he  
4 would not put the information on eBay again as he and Edwards had an oral agreement. Edwards said  
5 he would try to get a written agreement the next day.

6 **VICKIE FRENCH-FRENCH TRUCKING, INC.**

7 Vickie French, President of French Trucking in Lexington, Tennessee, stated that Jeff Greer had  
8 been an employee of French Trucking for about 15 years. Greer is only a driver for the company and  
9 does not own either the truck or the trailer he drives. French Trucking had never before been involved  
10 in a situation where it shipped confidential information. Most shipments the company handles do not  
11 concern sensitive or expensive items. Generally, the shipper loads the truck and seals it. When the truck  
12 is delivered to the receiver, the receiver releases the truck. If items of value are left in the trailer, French  
13 Trucking would contact the shipper or receiver to find out what to do with the items.

14 In this instance, after delivering the load to the mill in Alabama on March 17, 2007, Greer called  
15 French to ask her a question regarding items left in the trailer after the shipment. Greer asked French  
16 if he could do whatever he wanted with the items left in the trailer after delivery. She responded, "Like  
17 what?" as she did not know what items he had been hauling. Greer said something to the effect of "If  
18 I hauled grass seed, could I take that home and put it on my yard?" French said that he could.

19 French learned later that Greer had been hauling confidential documents and not grass seed. If  
20 Greer had asked a truthful question, French would have told him not to keep the documents and she  
21 would have contacted the broker of the shipper and receiver to find out what to do with the documents.  
22 Under no circumstances would she have authorized Greer to keep valuable documents which did not  
23 belong to him.

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III

PERTINENT LAW

**18 U.S.C. 1951 (INTERFERENCE WITH COMMERCE BY THREATS OR VIOLENCE)**

Title 18, United States Code, Section 1951, provides in pertinent part:

Whoever in any way or degree obstructs, delays or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion...shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

The effect on interstate commerce which is sufficient to invoke jurisdiction under Section 1951 may be de minimis. United States v. Shackelford, 494 F.2d 67 (9th Cir. 1974). In the absence of proof of actual impact, all that is needed is a realistic probability that the extortion will have some effect on interstate commerce. United States v. Bagnariol, 665 F.2d 877 (9th Cir. 1981), United States v. Phillips, 577 F.2d 495 (9th Cir. 1978). United States v. Glynn, 627 F.2d 39 (7th Cir. 1980), United States v. Summers, 598 F.2d 450 (9th Cir. 1979). The extortion of protection money from a wholesale liquor distributor who purchased beverages from outside the state was considered sufficient interstate nexus to invoke the statute. United States v. Braasa, 505 F.2d 139 (7th Cir. 1974). Similarly, the robbery of money from an interstate business, which robbery depletes the business funds, suffices to invoke the Hobbs Act. United States v. Gates, 616 F.2d 1103 (9th Cir. 1980). Where a restaurant's operations were disrupted out of fear of coercive activities, but the restaurant's only connection with interstate commerce was the purchase of meat and supplies from out of state; this too was found sufficient. United States v. Amato, 495 F.2d 545 (5th Cir. 1973).

**18 U.S.C. §§ 1341, 1343 (WIRE FRAUD)**

Title 18, United States Code, section 1343 provides in pertinent part:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire ... communication in interstate ... commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice ...

shall be guilty of an offense against the laws of the United States. 18 U.S.C.A. § 1343 (West 1984).

1 To establish a violation of section 1343, the government must prove the following elements  
2 beyond a reasonable doubt:

- 3 (1) the defendant made up a scheme or plan for obtaining money or property  
4 by making false statements;
- 5 (2) the defendant knew that the statements were false;
- 6 (3) the promises or statements were of a kind that would reasonably  
7 influence a person to part with money or property;
- 8 (4) the defendant acted with the intent to defraud;
- 9 (5) that the defendant used or caused someone to use the telephone to place  
10 a telephone call from one state to another state to carry out or to attempt  
11 to carry out the scheme or plan.

12 See Devitt and Blackmar, Federal Jury Practice and Instructions § 47.04 (1988 Cum. Supp.); Manual  
13 of Model Criminal Jury Instructions for the Ninth Circuit, §§ 8.26B and 8.26C (1995); see also Schreiber  
14 Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1400 (9th Cir. 1986).

15 (a) Case Law Concerning Mail Fraud Statute is Applicable to Wire Fraud Statute

16 The language used in the wire fraud statute substantially parallels that used in the mail fraud  
17 statute. Consequently, in interpreting the wire fraud statute, courts have been guided by their  
18 interpretations of the mail fraud statute. United States v. Wolfson, 634 F.2d 1217, 1220 (9th Cir. 1980).  
19 Case law concerning the mail fraud statute can be used in discussing the wire fraud statute. United  
20 States v. Computer Science Corp., 689 F.2d 1181 (4th Cir. 1982), cert. denied, 459 U.S. 1105 (1983);  
21 United States v. Giovingo, 637 F.2d 941 (3d Cir. 1980), cert. denied sub nom. Paladino v. United States,  
22 450 U.S. 1032 (1981).

23 (b) The Scheme to Defraud

24 The government does not have to prove that the scheme was successful or that any person was  
25 actually defrauded. Schreiber Distrib. Co., 806 F.2d at 1400 (mail fraud and wire fraud); United States  
26 v. Bosby, 675 F.2d 1174 (9th Cir. 1982)(mail fraud); United States v. Louderman, 576 F.2d 1383, 1387-  
27 88 (9th Cir.)(wire fraud), cert. denied, 439 U.S. 896 (1978); Lindsay v. United States, 332 F.2d 688 (9th  
28 Cir. 1964)(mail fraud).



1 The scheme to defraud may include any plan or course of action that is reasonably calculated to  
2 deceive another. Lustiger v. United States, 386 F.2d 132, 138 (9th Cir. 1967), cert. denied, 390 U.S. 951  
3 (1968). Although it is not necessary to prove that the defendant misrepresented any facts, United States  
4 v. Halbert, 640 F.2d 1000, 1007 (9th Cir. 1981), Lustiger, 386 F.2d at 138, most mail fraud and wire  
5 fraud convictions are obtained on the basis of some sort of misrepresentation, whether it be an  
6 affirmative misstatement, a statement of half-truth, or concealment of a material fact. Consequently, a  
7 misrepresentation is often misstated as being an essential element of the offenses. See, e.g., United  
8 States v. Ballard, 663 F.2d 534 (5th Cir. 1981), modified at 680 F.2d 352 (1982); United States v.  
9 Bronston, 658 F.2d 920 (2d Cir. 1981), cert. denied, 456 U.S. 915 (1982); United States v. Bryza, 522  
10 F.2d 414, 425 n.12 (7th Cir. 1975), cert. denied, 426 U.S. 912 (1976); Cacy v. United States, 298 F.2d  
11 227, 229 (9th Cir. 1961).

12 (c) Use of the Wires

13 A defendant does not have to personally use the mails or interstate wires to be guilty of mail  
14 fraud or wire fraud if the defendant causes the facilities to be used. A defendant causes their use when  
15 he "does an act with knowledge that the use of the mails [or interstate wires] will follow in the ordinary  
16 course of business or where such use can reasonably be foreseen, even though not actually intended ...."  
17 Pereira, 347 U.S. at 8-9.

18 Moreover, the use of interstate wires need not be essential to the scheme to defraud. The statutes  
19 merely require that the use of the facilities be in furtherance of the scheme. If the use of the interstate  
20 wires is "sufficiently closely related to the scheme," "advances the scheme in a meaningful way," or is  
21 "incidental to an essential part of an ongoing scheme," the requirement of the statute is met. Schmuck  
22 v. United States, No. 87-6431, slip op. (U.S. March 22, 1989); United States v. Maze, 414 U.S. 395, 399  
23 (1974); Pereira, 347 U.S. at 8; United States v. Garner, 663 F.2d 834, 838 (9th Cir. 1981), cert. denied,  
24 456 U.S. 905 (1982).

1 **18 U.S.C. § 1952 (INTERSTATE TRAVEL IN AID OF RACKETEERING)**

2 1. The Statute and Its Elements

3 Title 18, United States Code, Section 1952 provides, in pertinent part:

4 (a) Whoever travels in interstate or foreign commerce or uses . . . any facility in interstate or  
5 foreign commerce, with intent to... (3) otherwise promote, manage, establish, carry on, or  
6 facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,  
7 and thereafter performs or attempts to perform (A) an act described in paragraph (1) or (3) shall  
8 be fined under this title, imprisoned for not more than 15 years, or both; or (B) an act described  
9 in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both,  
10 and if death results shall be imprisoned for any term of years or for life.

11 (b) As used in this section 'unlawful activity' means (1) any business enterprise involving ...  
12 prostitution ... offenses in violation of the laws of the State in which they are committed or of  
13 the United States, (2) extortion, bribery ... in violation of the laws of the State in which  
14 committed or of the United States. . . .

15 The elements the Government must prove beyond a reasonable doubt were set out by the Ninth  
16 Circuit in United States v. Tavelman, 650 F.2d 1133, 1138 (9th Cir.), cert. denied, 102 S. Ct. 1429, 455  
17 U.S. 939, 71 L.Ed2d 649 (1982). These elements are:

- 18 (1) That the defendant traveled in interstate commerce or used an interstate facility;
- 19 (2) That the defendant traveled in interstate commerce or used the interstate facility with the  
20 intent to promote, manage, establish, carry on or facilitate the promotion, management,  
21 establishment or carrying on of an unlawful activity; and
- 22 (3) That the defendant committed a subsequent overt act in furtherance of the unlawful  
23 activity.

24 See also, United States v. Winslow, 962 F.2d 845, 851 (1992).

25 2. Use of Interstate Facilities

26 A defendant who uses a telephone to place or receive an interstate telephone call uses an  
27 interstate facility within Section 1952. United States v. Perrin, 580 F.2d 730, 736 (5th Cir.), aff'd, 444  
28 U.S. 990, 100 S. Ct. 520, 62 L. Ed.2d 419 (1979); United States v. Hanon, 428 F.2d 101, 108 (8th Cir.  
1970). The interstate nature of telephone calls may be established by direct evidence such as toll  
records or pen registers, or it may be established by circumstantial evidence. United States v. Banariol,  
665 F.2d 877, 897 (9th Cir.), cert. denied, 102 S. Ct. 2040, 456 U.S. 962, 72 L. Ed.2d 487 (1982).

3. The Promotion or Facilitation of Unlawful Activity

1 When charging use of interstate telephone calls in furtherance of an unlawful gambling business,  
2 the Government is required to show that the traveler or calls "facilitated" the prostitution business or the  
3 extortion or bribery. Facilitate, as used in Section 1952, has been defined as "to make easier or less  
4 difficult." United States v. Gibson Specialty Co., 507 F.2d 446, 450 (9th Cir. 1974); see also, United  
5 States v. Pecora, 693 F.2d 421, 423 (5th Cir. 1982); United States v. Miller, 379 F.2d 483, 486 (7th Cir.  
6 1967).

7 4. Subsequent Act in Furtherance of the Illegal Activity

8 To be guilty under Section 1952, a defendant, after using an interstate facility to facilitate the  
9 unlawful activity, must also perform or attempt to perform an act facilitating the unlawful activity. The  
10 "thereafter act" requirement does not require the commission of an illegal act, but only an act in  
11 furtherance of the unlawful activity. United States v. Davanzo, 699 F.2d 1097, 1101 (11th Cir. 1983);  
12 United States v. Jones, 642 F.2d 909, 913 (5th Cir. 1981) ("thereafter act" requirement can be met by  
13 proof of gambling after the last date charged in the indictment); United States v. Loucas, 629 F.2d 989,  
14 991 n.3 (4th Cir. 1980); United States v. Nichols, 421 F.2d 570, 573 (8th Cir. 1970). The Ninth Circuit  
15 in United States v. Tavelman, 650 F.2d at 1138, stated the "thereafter act" is "a subsequent overt act in  
16 furtherance of that unlawful activity."

17 **NEVADA EXTORTION STATUTE**

18 Nevada Revised Statute Section 205.320 reads in whole as follows:

19 205.320 Threats constituting extortion; punishment.

20 Every person who, with intent thereby to extort or gain any money or other property or to compel  
21 or induce another to make, subscribe, execute, alter or destroy any valuable security or  
22 instrument or writing affecting or intended to affect any cause of action or defense, or any  
property, or to influence the action of any public officer, or to do or abet or procure any illegal  
or wrongful act, whether or not such purpose is accomplished, threatens directly or indirectly:

- 23 1. To accuse any person of a crime;
- 24 2. To do an injury to any person or to any property;
- 25 3. To publish or connive at publishing any libel;
- 26 4. To expose or impute to any person any deformity or disgrace; or

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5. To expose any secret;  
shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

The standardized instructions for the Eighth Judicial District Courts for the State of Nevada includes the following instruction on this crime:

“Every person or persons who with the intent thereby to extort or gain any money or other property, whether or not such purpose is accomplished, shall threaten directly or indirectly to do an injury to any person, shall be guilty of the crime extortion.”

IV

EVIDENTIARY AND LEGAL ISSUES

**E. Admissibility of Evidence Derived From Court Authorized and Consensually Recorded Wire or Oral Communications**

**1. Authentication of Title III recordings**

Federal Rule of Evidence 901's authenticity requirement is satisfied “by evidence sufficient to support a finding that the matter in question is what its proponent claims.” Fed.R.Evid. 901(a). For a recording to meet the authenticity requirement, a trial court, in the exercise of its discretion, must be satisfied that the recording is “accurate, authentic, and generally trustworthy.” United States v. Mouton, 617 F.2d 1379, 1383-84 (9th Cir. 1980); United States v. King, 587 F.2d 956, 961 (9th Cir 1978). The burden is on the Government “to produce clear and convincing evidence of authenticity and accuracy as a foundation for the admission of...recordings...” United States v. Mouton, 617 F.2d at 1384 (citation omitted). In the present case, Harrah’s and MGM/Mirage employees involved in recorded conversations will identify the conversation and testify as to the recordings completeness and accuracy.

**2. Voice Identification**

Rule 901(b)(5) establishes a low threshold for voice identifications. United States v. Plunk, 153 F.3d 1011, 1022 (9th Cir. 1998). In Plunk, the court held a witness’s presence at the defendant’s post-arrest interview established sufficient familiarity to meet Rule 901(b)(5)’s requirements for identifying defendant’s voice in conversation that was recorded prior to defendant’s arrest. Id.

1 Minimal familiarity with a person's voice is sufficient to sustain admissibility of voice  
2 identification evidence. United States v. Cerone, 830 F.2d 938, 949 (8th Cir. 1987); United States v.  
3 Vega, 860 F.2d 779, 788 (7th Cir. 1988); See also United States v. Lampton, 158 F.3d 251, 259 (5th Cir.  
4 1998) (holding defendant's voice in recorded telephone conversations was properly identified by witness  
5 who had heard defendant's voice in her prior personal contacts with him).

6 A witness can properly identify a defendant's voice either before or after the particular speaking  
7 in issue. In United States v. Watson, 594 F.2d 1330, 1335 (10th Cir. 1979 ), the court noted, "familiarity  
8 with another's voice may be acquired either before or after the particular speaking which is the subject  
9 of the identification." See also United States v. Cuesta, 597 F.2d 903, 915 (5th Cir. 1979) (holding Rule  
10 901(b)(5) requires only that witness have "some familiarity with the voice which he or she identifies";  
11 prior conversations between witnesses and defendant were sufficient to satisfy Rule's requirements that  
12 witnesses have familiarity with defendant's voice).

13 In the instant case, Randy Riley, who personally met with defendant Greer in Tennessee will  
14 testify and identify defendant's voice on the recordings to be introduced in this case. Riley will testify  
15 as to defendant's voice in his own conversations with defendant. Riley will review the recordings and  
16 the transcripts of the recordings of defendant's conversations with Kyle Edwards and testify that where  
17 the transcripts refer to defendant Greer speaking Riley recognized the voice on the recording and the  
18 transcript accurately reflects defendant Greer speaking.

19 V

20 EXHIBIT LIST

21 The Government intends to offer the following Exhibits at trial unless stipulations are agreed  
22 upon by the parties:

- 23 May 7, 2007 Recording of Greer Voicemail
- 24 Video of French Trucking Trailer
- 25 Recording May 7, 2007 Greer/Riley telephone call #1
- 26 Recording May 7, 2007 Greer/Riley telephone call #2

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- 1 Ebay Printout of “gaming family jewels” Auction (Harrah’s copy)
- 2 Harrah’s Corporate Check for \$250,000
- 3 Harrah’s Service Contract signed by Greer
- 4 Harrah’s Service Contract signed by Riley
- 5 Harrah’s internal documents from Greer’s briefcase
- 6 Signed statement of Greer
- 7 Tropicana internal documents from Greer’s briefcase
- 8 MGM/Mirage internal documents from Greer’s automobile
- 9 Notebook taken from Greer
- 10 Memoranda documenting pickup from 4751 Vandenberg Drive in Las Vegas, Nevada, to transport to
- 11 Boise Cascade in Jackson, Alabama
- 12 Fax from Greer to MGM/Mirage on April 27, 2007
- 13 Fax from Greer to MGM/Mirage on May 2, 2007
- 14 Ebay Printout of “gaming family jewels” Auction (MGM/Mirage copy)
- 15 Recorcing May 7, 2007 Greer/Kyle Edwards telephone call
- 16 Recording May 8, 2007 Greer/Kyle Edwards telephone call

17 **VI**

18 **WITNESSES**

19 **WITNESS LIST** - At this point, the United States anticipates calling the following witnesses

20 in its case in chief:

21 Kyle Edwards

22 Helena Garcia  
23 Executive Assistant to the Senior Vice President of Global Security  
MGM/Mirage

24 Bruce Gephardt  
25 Senior Vice President of Global Security  
MGM/Mirage

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- 1 Ray Chitwood  
Security Officer  
2 Casears Palace
- 3 Tonia Verma  
Data Security Analyst  
4 MGM/Mirage
- 5 Terry Hulse  
Corporate Director of Investigations  
6 Harrah's Entertainment
- 7 Randy Riley  
Corporate Investigator  
8 Harrah's Entertainment
- 9 Skip Wilks  
Corporate Director of Security  
10 Harrah's Entertainment
- 11 Paul Urban  
Harrah's Entertainment
- 12 Mike Effner  
13 Harrah's Entertainment
- 14 Vickie French  
President, French Trucking  
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16 Custodian of Records  
Tracfone
- 17 Special Agent Joseph N. Rinehart  
Federal Bureau of Investigation
- 18  
19 Special Agent Stephen K. Lies  
Federal Bureau of Investigation
- 20 Special Agent Ronald L. Godfrey  
Federal Bureau of Investigation

21 **VII**

22 **JURY INSTRUCTIONS**

23 The Government's proposed jury instructions will be submitted under separate cover. We  
24 respectfully request that the Court give any general instructions it deems necessary.

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**VII**

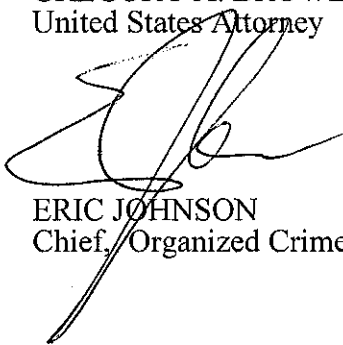
**SERVICE AND FILING OF TRIAL MEMORANDUM**

The undersigned certifies that, before jury selection in this case, the original copy of this Trial Memorandum will be filed in an open court and a copy served upon counsel for the defense.

DATED this 16th day of October, 2008.

Respectfully submitted,

GREGORY A. BROWER  
United States Attorney



ERIC JOHNSON  
Chief, Organized Crime Strike Force